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International Court of Justice

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# INTRODUCTORY STATEMENT

# OF
# THE FRENCH PROSECUTION

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Delegate of the

PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC

to the PROSECUTION at the

INTERNATIONAL MILITARY TRIBUNAL

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1314 RL.

1. The conscience of the peoples who only yesterday were enslaved and tortured both in soul and body calls upon you to judge and to condemn the most monstrous attempt at domination and barbarism of all time, both in the persons of some of th se who bear the chief responsibility and in the groups and associations which were the essential instruments of their crimes.

France, twice in thirty years invaded in the course of wars both of which were launched by German imperialism, bore almost alone, in May and June 1940, the weight of armaments accumulated by Nazi Germany over a period of years in a spirit of agression. Although temporarily crushed by superiority in numbers, materiál and preparation, my country never gave up the battle for freedom and was at no time absent from the field. The engagements undertaken and the will for national independence would have sufficed to assure France's support of General de GAULLE in the camp of the democratic nations; but if our fight for freedom slowly took the shape of a popular uprising, at the call of the men of the Resistance belonging to all social classes, to all creeds and to all political parties, it was because, while our soil and our souls were crushed by the Nazi invader, our people refused not only to submit to wretchedness and slavery, but even more, because they refused to accept the Hitlerian dogmas which are in absolute contradiction to their traditions, their aspirations and their human calling,

France who was sytematically plundered and ruined, France, so many of whose sons were tortured and murdered in the jails of the Gestapo or in their concentration camps, France who was subjected to the still more horrible grip of demoralization and return to barbarism diabolically imposed by Nazi Germany, asks you, above all in the name of the heroic martyrs of the Resistance, who are among the greatest heroes of our national legend, that justice be done,

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France, who so often in history, has been the spokesman and the champion of human liberty, of human values, of human progress, through my voice today also becomes the interpreter of the martyred peoples of western Europe, Norway, Denmark, the Netherlands, Belgium, Luxembourg, peoples more than others devoted to peace, peoples who are among the noblest of humanity by their aspirations and their worship of the values of civilization, peoples who have shared our sufferings and have refused, like us, to give up liberty and to sacrifice their souls before the assault of Nazi barbarism. France here becomes their interpreter to demand that justice be done.

2. The tortured peoples' craving for justice isthe basic foundation of France's call to your High Tribunal. It is not the only one, nor perhaps the most important one. More than toward the past, our eyes are turned toward the future.

We believe that there can be no lasting peace nor any certain progress for humanity which still today is torn asunder, suffering and anguished, except through the cooperation of all peoples and through the progressive establishment of a real international society.

Technical prpcedures and diplomatic arrangements will not suffice. There can be no well balanced and enduring nation without a common consent in the essential rules of social living, without a general standard of behavior before the claims of sonscience, without the adherence of all zitizens to identical concepts of good and of evil; there is no domestic law which in defining and punishing criminal violations is not founded on criteria of a moral order which are accpeted by all--in a word, without a common morality. There can be no society of nations tomorrow without an international morality, without a certain community of spiritual civilization, without an identical hierarchy of values; international law will be called upon to recognize and guarantee the punsihment of the gravest violations of the universally accepted moral laws. This morality and this international criminal law, indispensable for the final establishment of peaceful

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cooperation and of progress of lasting foundations, are inconceivable to us today, offer the experience of past centuries and more especially of these last years, after the incredible and awesome sacrifices and the sufferings of men of all races and of all nationalities except as built on the respect of the human person of every human person whosoever he may be, as well as on the limitation of the sovereignty of states.

But in order that we may have the hope of founding an international society through the free cooperation of all peoples, on thismorality and on this international law, it is necessary that after having premeditated, prepared and launched a war of aggression which has caused the death of millions of men and the ruin of a great number of nations, after having thereupon piled up the most odious crimes in the course of the war years, Nazi Germany shall be declared guilty and her rulers and those chiefly responsible punshied as such. Without this sentence and without this punishment the nations would have no faith in justice. When you have declared that crime is always crime, whether committed by a national entity against other nations or by one individual against another, you will thereby have affirmed that there is only one morality, which applies to international relations as well as to individual relationships, and that on this morality are built prescriptions of law recognized by the international community, you will then have truly begun to establish an international justice.

This work of justice is equally indispensable for the future of the German people. These people have been for many years intoxicated by Nazism; certain of their eternal and deep seated aspirations, under this regime, have found a monstrous expression; their entire responsibility is involved, not only by their general acceptance but by the effective participation of a great number of them in the crimes committed. Their re-education is indispensable. This represents a difficult enterprise and one of long duration. The efforts which the free peoples will have to make

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in order to reintegrate Germany in the international community cannot succeed in the end if this re-education is not carried our effectively. The initial condemnation of Nazi Germany by your High Tribunal will be a first lesson for these peoples and will constitute the best starting point for the work of the revision of values and of re-education which must be its great concern during the coming years.

This is why France sees fit to ask the Tribunal to qualify juridically as crimes both the war of aggression itself and those acts in violation of the morality and of the laws of all civilized countries which have been committed by Germany in the conduct of the war, to impose the supreme penalty on those who are chiefly responsible, and to declare criminal the members of the various groups and organizations which were the principal perpetrators of the crimes of Nazi Germany.

3. Your High Tribunal, established by the four nations, signatory to the agreement of 8 August 1945, acting in the interests of all the United Nations, is qualified to mete out to Nazi Germany the justice of the free peoples, the justice of liberated humanity.

The establishment by our four governments of a Tribunal competent to judge the crimes committed by those principally responsible in Nazi Germany, is based solidly on the principles and usage of International law. As an eminent British jurist (1) has recently reminded us: the practice and the doctrine of International law have always given to belligerent states the right to punish enemy war criminals who fall into their power. It is an incontestable rule of international law which no author has ever contested. It is not a new doctrine. It was born with the birth of International Law. Francisco de VITTORIA and GROTIUS laids its foundations. The German authors of the 17th and 18th century developed the doctrine.

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(1) Lauterpacht, The Law of nations and the punishment of War Crimes (The British Year Book of International Law 1944).

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Thus Johann Jacob MOSER, a positivistic writer of the 18th century said: "Enemy soldiers who act in violation of International Law, should they fall into the hands of their adversaries, are not to be treated as prisoners of war. They can suffer the same fate as thieves and murderers". The prosecutions which the United States, Great Britian, The Union of Soviet Socialist Republics and France are today carrying out against the men and the organizations appearing before your high Tribunal under the indictment drawn up in Berlin on October 18, 1945, therefore have an unimpeachable juridical foundation: The right universally recognized by international doctrine of bringing War Criminals before a repressive jurisdiction.

This right is strenghtened by legal considerations that are perhaps even more irrefutable.

The principle of the territorial application of penal laws gives to every State the right to punish crimes committed on its territory. The application of the territorial principle covers the violations of international law in territory subject to military occupation; these violations are the chief source of war crimes. But the crimes committed by the defendants were not directed against any given state, in any given occupied territory. The national-socialist conspirators, against whom we ask that justice be done, directed the policy of the 3rd Reich.

All the states which were occupied and temporarily enslaved by their armed forces, have been equally victims both of the illicit war which they launched and of the methods used by them in the conduct of this war.

There is therefore not a single state which could legitimately claim the privilege of trying these criminals. Only an International Tribunal, emanating from the combined United Nations, which were yesterday at war with Germany, can rightly claim this privilege. This is why the declaration as to enemy atrocities made at the end of the Moscow conference in October 1943, had provided that the leaders of Nazi-Germany would, after the joint victory of the Allies, be brought before an international jurisdiction. There is, therefore, nothing new from a juridical point of view in the principle of justice which you are called upon to render. Far from being merely a statement of power from the side of the victors, your competence is founded on the recognition by international law of the territorial jurisdiction of sovereign States.

The transfer by these States of their juridical power to an international court constitutes a notable progress in the setting up of an interstate repressive

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procedure, it does not constitute any innovation in the legal foundation of the justice which you are called upon to render.

The penal qualification of the facts may seem more open to juridical objections. This horrible accumulation and maze of crimes against humanity both include and go beyond the two more precise juridical notions of crimes against peace and War Crimes. But I think - and I will revert later separately to crimes against peace and War Crimes - that this body of crimes against humanity constitutes in the last analysis, nothing less than the perpetration for political ends and in a systematic manner of common law crimes such as theft, looting, ill treatment, enslavement, murders and assassinations crimes that are provided for and punishable under the penal laws of all civilized States.

No general objection of a juridical nature, therefore, appears to hamper your task of justice.

Moreover, the Nazi accused would have no ground to argue an alleged lack of written texts to justify the penal qualification that you will apply to their crimes.

The juridical doctrine of ... had not the juridical doctrine of National-Socialism admitted that in domestic criminal law even the judge can and must supplement the law. The written law no longer constituted the Magna Carta of the delinquent. The judge could punish when, in the absence of a provision for punishment, the National Socialist sense of justice was gravely offended.

How could the judge of the Nazi regime supplement the law?

In his search for a semi-legal solution he acted in the manner of a legislator. Proceeding from the firm basis of the National-Socialist programme, he sought the rule which he would have proclaimed had he been a legislator. The defendant FRANCK, in his speech at the Juristentag in 1936 (1) declared: "Say to yourself at each decision you have to make, how would the Fuehrer decide in my place? At each decision which you must make, ask yourself: Is this decision in accordance with the National-Socialist conscience of the German people? Thus you will have a firm basis of conscience which will also bear for all time, in your own sphere of decisions, the authority of the 3rd Reich, passed on the unity of the popular National*Socialism whole and on the recognition of the will of the Fuehrer Adolf Hitler".

To those who tomorrow will render justice in the name of human conscience, the accused FRANCK and his accomplices would be illadvised to protest a lack of

(1) Der Deutsches Recht, 1936 p. 217

written texts with appropriate sanctions, especially as, in addition to various international conventions, these texts, though they be not codified in an inter-state penal code, exist in the penal code of every civilized country.

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Judge Jackson has given you the details of the various phases and aspects of the National-Socialist plot, its planning and its development, from the first days of the conspiracy of Hitler's and his companion's rise to power, until the unleashing of unnumerable crimes in a Europe almost entirely at their mercy.

Sir HARTLEY SHAWCROSS has enumerated the various breaches of treaties, of agreements, of promises which were the prelude to the many wars of aggression of which Germany was guilty.

I propose to-day to prove to you that all this organised and vast criminality springs from what I may be allowed to call a crime against the spirit, I mean a doctrine which, denying all spiritual, rational and moral values by which the nations have tried, for thousands of years, to improve human conditions, aims to plunge humanity back into barbarism, no longer the natural and spontaneous barbarism of primitive nations, but into a diabolical barbarism, conscious of itself and utilizing for its ends all material means put at the disposal of mankind by contemporary science. This sin against the spirit, this is the original sin of National-Socialism from which all crimes spring.

I) This monstrous doctrine is that of racism:

The German race, composed in theory of Aryans, would be a fundamental and natural concept. Germans as individuals do not exist and cannot justify their existence, except in so far as they belong to the race or Volkstum, to the popular mass which represents and amalgamates all Germans. Race is the matrix of the German people; proceeding therefrom this people lives and develops as an organism. The German may consider himself only as a healthy and vigorous member of this body, fulfilling within the collectivity a definite technical function; his activity and his usefulness are the exact gauge and justification of his liberty. This national body must be "moulded" to prepare it for a permanent struggle.

The ideas and the bodily symbols of racism are an integral part of its political system; this is what is called authoritative or dictatorial



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biology.

The expression "blood" which appears so often in the writings of the Nazi theorists denotes his stream of real life, of red sap which flows through the circulatory system of every race and of all genuine culture as it flows through the human body. To be Aryan is to feel this current passing through oneself, this current which galvanises and vivifies the whole nation. Blood is this region of spontaneous and unconscious life which reveals to each individual the tendencies of the race. The intellectual life must never, in extolling itself, separate us from this elemental basis of the sacred community. Let the individual go into himself and he will receive by direct revelation "the commandments of the blood". Dreams, rites and myths can lead to this revelation. In other words the modern German can and must hear in himself the call of the old Germany and find again its purity and its youthful primitiveness.

The body and soul unity (Leibseele Einheit) of the individual must not be disputed. One reads in the "Nationalsozialistische Monatsheft" of September 1938: "It is said that the body belongs to the State and the soul to the Church and to God. It is not so. The whole of the individual, body and soul, belongs to the Germanic nation and to the Germanic State". National-Socialism affirms indeed that the moral conscience is the result of ortho-genetic evolution, the consequence of the most simple physiological functions which characterise the individuality of the body. Therefore, the moral conscience is also subject to heredity and consequently subject to the postulate and to the demands of the race.

True this pseudo-religion does not repudiate the use of reason and of technical activity, but subordinates them rigorously, brings them infallibly to the racial myth.

The individual has no value in himself and is important only as an element of the race. This affirmation is logical if one admits that not only physical and psychological characteristics but also opinions and tendencies are bound, not to the individual but to the nation. Anyone whose opinions differ from the official doctrine is asocial or unhealthy. He is unhealthy because in the Nazi doctrine the nation is equivalent to the race. Now, the

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characteristics of the race are fixed. An exception in the formation from the spiritual or moral point of view constitutes a malformation in the same way as does a club foot or a hare lip.

Totalitarian doctrine which reduces the individual to non-existence save by the race and for the race, without freedom of action or any definite aim. Totalitarian doctrine which excludes every other concept, every other aspiration or requirement save those connected with the race, totalitarian doctrine which eliminates from the individual every other thought save that of the interests of the race.

National-Socialism ends in the absorption of the personality of the citizen into that of the state and in the denial of any intrinsic value of the human person. We

We are brought back, as can be seen, to the most primitive ideas of the savage tribe. All the values of civilization accumulated in the course of centuries are rejected, all traditional ideas of morality, justice and law give way to the primacy of race, its instincts, its needs and interests. The individual, his liberty, his rights and aspirations, no longer have any real existence of their own.

In this conception of race it is easy to realize the gulf that separates members of the German community from other men. The diversity of the races becomes irreducible, and irreducible, too, the hierarchy which sets apart the superior and the inferior races. The Hitler regime has created a veritable chasm between the German nation, the sole keeper of the racial treasure, and other nations.

Between the Germanic Community and the degenerate population of an inferior human variety there is no longer any common measure. Human brotherhood is rejected, even more than all the other traditional moral values.

2) How can one explain that Germany, fertilized through the centuries by classic antiquity and christainity, by the ideals of liberty, equality and social justice, by the common heritage of Western humanism to which she had brought such noble and precious contributions, could have come to this astonishing return to primitive barbarism.

In order to understand it and to try to eradicate from the Germany of tomorrow the evil by which our entire civilization came so near to perishing, it must be recalled that National Socialism has deep and remote origins.

The mysticism of racial community was born of the spititual and moral crisis which Germany underwent in the 19th Century and which abruptly broke out again in its economic and social structure through a particularly rapid industrialization. National Socialism is in reality one of the peaks of the moral and spiritual crisis of modern humanity, convulsed by industrialization and technical progress. Germany experienced this metamorphosis of economic and social life not only with an extraordinary brutality but at a time when she did not yet possess the political equilibrium and the cultural unity which the other countries of western Europe had achieved.

While the inner and spiritual life was weakening, a cruel uncertainity dominated the spirits, an uncertainity admirable defined by the term "ratlosigkeit" which cannot be translated into French but which corresponds to our popular expression, "one no longer knows in what saint to believe". This is the spiritual cruelty of the 19th century which so many Germans have described with a tragic evocative power. A gaping void opens before the human soul disoriented by the search for new values.



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The natural sciences and the sciences of the mind give birth to absolute relativism; to a deep scepticism regarding the lasting quality of values on which western humanism has been nurtured for centuries. A vulgar Darwinism prevails, bewilders and befuddles the brain. The Germans cease to see in human groups and races anything but nuclei closed in upon themselves, in perpetual struggle with one another.

It is in the name of decadence that the German spirit condemns humanism. It sees in the values of humanism and in the elements that derive from it only "maladies", which it attributes to an excess of intellectualism and abstraction of everything that restrains men's passions by subjecting them to common norms. From this point on classic antiquity is no longer considered in its aspect of ordered reason or of radiant beauty. It is seen only in the light of civilization vitally enamoured of struggles and rivalries, linked especially to Germany through their would-be German origins.

Sacerdotal Judaism and Christainity in all its forms are condemned as religions of honor and brotherhood, calculated to kill the virtues of brutal force in man.

A cry is raised against the democratic idealism of the modern era, and them against all the internationals.

Over a people in this state of spiritual crisis and of negationsof traditional values the culminating philosophy of Nietzsche was to exercise a dominant influence. In taking the will to power as a point of departure, Nietzsche preached, not inhumanity but superhumanity. If there is no final cause in the universe, man--whose body is matter which is at once feeling and thinking--many mould the world to his desire, choosing as his guide a militant biology. If the supreme end of humanity is a feeling of victorious fullness which is both material and spiritual, all that remains is to insure the selection of physical specimens, who become the new aristocracy of masters.



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For Nietzsche the industrial evolution necessarily entails the rule of the masses. The automatism and the shaping of the working multitudes. The state endures only by virtue of an elite of vigorous personalities who, by the methods so admirably defined by Machiavelle, which alome accord with the laws of life, will lead men by force and by ruse simultaneously, for men are and remain wicked and perverse.

We see the modern barbarian arise. Superior by his intelligence and his willful energy, freed of all conventional ethics he can enforce upon the masses obediance and loyalty by making them believe in the dignity and beauty of labor and by providing them with that mediocre well-being with which they are so easily content. A one and same force will, therefore, be manifest in the leaders, whose elementary passions by the harmony between their elementary passions and the lucidity of their organizing reason, and in the masses, whose dark or violent instincts will be balanced by a reasoned activity imposes with implacable discipline.

One cannot, doubtlessly, identify the late philosphy of Nietzsche with the brutal simplicity of National Socialism. Nevertheless, National-Socialism was wont to glorify Nietzsche as one of its ancestors. And justly so, for he was the first to formulate in a coherent manner criticism of the traditional values of humanism; and also, because his conception of the government of the masses by masters knowing no restraint, is a preview of the Nazi regime, Besides, Nietzsche believed in the sovereign race and attrubuted primacy to Germany, whom he considered endowed with a youthful soul and unquenchable resources.

The myth of racial community which had arisen from the depths of the German soul , unbalanced by the moral and spiritual crises endured by modern humanity, joined up with the traditional thesis of Pangermanism.

Fichte's "Speeches to the German Nation" had already, by



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exalting Germanity, clearly revealed one of the main keys ideas of Pangermanism - namely, that Germany visualizes and organizes the world as it should be visualized and organized.

The apology of war is also no novelty. It dates back to Fichte and Hegel, who had stated that by classifying peoples, war alone established justice among nations. On page 433 of his "Grundlinien der Philosophie des Rechtes", Hegel writes: "The moral health of nations is maintained thanks to war, just as the passing breeze saves the sea from stagnation".

The living-space theory appears right at the beginning of the 19th century. It is a well-known geographical and historical demonstration which such people as Ratzel, Arthur Dix and Lamprecht will take up later on, comparing conflicts between peoples to a savage fight between conceptions and realizations of space and declaring that all history is moving towards German hegemony.

State totalitarianism also has deep roots in Germany. The absorption of individuals by the State was hoped for by Hegel, who wrote, "Individuals disappear in the presence of the universal substance (that is the people or state idea) and this substance itself shapes the individuals who are demanded by the ends in view." (Reason in History, page 32)

Therefore, National Socialism appears in no manner in present-day Germany, either as a spontaneous formation which might be due to the consequence of defeat in 1918, nor is it the mere invention of a group of men determined upon seizing power. National Socialism is the ultimate result of a long evolution of doctrines; the exploitation by a group of men of one of the most profound and most tragic aspects of the German soul. But the crime committed by Hitler and his companions will be precisely that of unleashing and exploiting to its extreme limit the latent force of barbarity, which existed before him in the German people.

3. The dictatorial regime instituted by Hitler and his companions carries with it for all Germans the "soldier-life", that is to say, a kind and a system of life entirely different from those which obtain in the bourgeois West and the proletarian East. It amounted to a permanent and complete mobilization of individual and collective energies. This integral militarization presupposed complete uniformity of thoughts and actions. It is a militarization which conforms to the Prussian tradition of discipline.

Propaganda instils into the masses faith, drive and a thirst for the greatness of the community. Those consenting masses find an artificial derivative for their moral anguish and their material cares in theories of race and in a mystical exaltation held in common. Souls which yesterday were wounded and rent asunder once more find themselves united in a common mold.

The Nazi educational system molds new generations which show no trace of traditional moral teachings, those being replaced by the cult of race



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and of strength.

The race-myth tends to become a real national religion. Many writers, substituting themselves to the duality of religious confessions, dream of dogmas of German conception, which would amount to being the religion of the German race, as a race.

In the midst of the 20th century Germany goes back, of her own will, beyond Christianity and civilization to the primitive barbarity of ancient Germany. She makes a deliberate break with all universal conceptions of modern nations. The National Socialist doctrine, which raises inhumanity to the level of a principle, constitutes, in fact, a doctrine of disintegration of modern society.

This doctrine necessarily brought Germany to a war of aggression and to the systematic use of criminality in the waging of war.

The absolute primacy of the German race, the negation of any international law whatsoever, the cult of strength, the exacerbation of community mysticism, made Germany consider recourse to war, in the interests of the German race, logical and justified.

This race would have the incontestable right to grow at the expense of nations considered decadent. Germany is about to resume the great invasions of the barbarians. Moreover, most naturally and logically, she will wage her war in barbarous fashion, not only because National Socialist ethics are indifferent to the choice of means, but also because war must be total in its means and in its ends.

Whether we consider a crime against peace or war crimes, we are therefore not faced by an accidental or occasional criminality which events could explain without justifying it. We are, in fact, faced by systematic criminality, which derives directly and of necessity from a monstrous doctrine put into practice with deliberate intent by the masters of Nazi Germany.

III.

1. From National Socialist doctrines there arises directly, the immediately pursued preparation of crimes against peace. As early as February, 1920, in the first program of the National Socialist Party, Adolf Hitler had already outlined the future basis of German foreign policy. But it was in 1924 in his Landsberg prison, while writing "Mein Kampf", that he gave a fuller development to his views.

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According to "Mein Kampf" the foreign policy of the Reich must have as its first objective to give back to Germany her "independence and her effective sovereignty" which is clearly an allusion to the articles of the Treaty of Versaille, referring to disarmament and the demilitarization of the Rhineland. It would then endeavor to reconquer the territories "lost" in 1919, and fifteen years before the outbreak of the Second World War, the question of Alsace and Loraine is clearly raised. It would also have to seek to extend German territories in Europe, the frontiers of 1914 being "insufficient" and it would be indispensable to extend them by including "all Germans" in the Reich, beginning with the Germans of Austria.

After having reconstituted Greater Germany, National Socialism will do everything necessary to "insure the means of existence" on this planet of the race assembled by the State, by means of establishing a "healthy relation" between the size of the population and the extent of the territory; by "healthy relation" is meant a situation such that the subsistance of the people will be assured by the resources of its own territory. "A sufficient living space on this earth will alone insure to a people its liberty of existence." (1)

But so far that is but a stage. "When a people sees its subsistance guaranteed by the extent of its territory, it is nevertheless necessary to think of insuring the security of that territory", because the power of a State "arises directly out of the military value of its geographical situation."

Those ends, Hitler adds, cannot be reached without a war. It will be impossible to obtain the reestablishment of the frontiers of 1914 "without effusion of blood." How much more would it be impossible to acquire living space if one did not prepare for a "clash of arms."

(1) (Page 726 of German Edition, 1936)

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"It is in Eastern Europe, at the expense of Russia and the neighboring countries that Germany must seek new territories. We arrest the eternal march of the Germans towards the South and the West of Europe and cast our eyes towards the South and the West of Europe and cast our eyes towards the East." (1)

But before anything, declares Hitler, it is necessary to crush France's tendency towards hegemony and to have a "final settlement" with this "mortal enemy." "The annihilation of France will enable Germany to acquire afterwards territories in the East." The "settlement of accounts" in the West is but a prelude. "It can be explained only as the securing of our rear defenses in order to extend our living-space in Europe." (2)

Henceforth, also, Germany will have to prevent the existence near her territory of a "military power" which might become her rival, and to oppose "by all means" the formation of a state which possibly might acquire sufficient strength to do so, and if that state exists already, to "destroy" it is, for the Germans, not only a right but a duty.

(1) Pp 741

(2) Pp 754

"Never permit," recommends Hitler to his compatriots, in a passage which he calls his political testament, "the formation in Europe of two Continental powers. In every attempt to set up a second military power on Germany's borders -- even if it were in the shape of a state which might possibly acquire that power -- you must see an attack on Germany. (1)

War to reconquer those territories lost in 1919, war to annihilate the p power of France, war to acquire living-space in eastern Europe, war, in fine, against any state which would be or which might become a counter-weight to the hegemony of the Reich, that is the plan of Mein Kampf.

In this way, from the inception of National Socialism, he does not recoil from any of the certainties of war entailed by the application of his doctrines.

(2) In fact, from the moment of his accession to power, Hitler and his companions devoted themselves to the military and diplomatic preparation of the wars of aggression which they had resolved to wage. (1) pp 187

It is true that even before the accession to power of the National Socialists Germany had already shown her determination to reconstruct her armed forces, notably in 1932 when on the occasion of the Disarmament Conference,

(2) (page 727 of the German edition of 1936)

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she demanded "equality of rights" as regards armament, and Germany had already violated in secret the articles of the Treaty of Versailles regarding disarmament, but after the arrival of Hitler to power, German rearmament was to be carried out at a vastly different rate.

On 14 October 1933 the Reich left the Disarmament Conference and made known five days later its decision to withdraw from the League of Nations under the pretext that it was not granted equality of rights in the matter of armament. France had however expressed her readiness to accept equality of rights if Germany would first consent to an international control which would enable the level of existing armaments to be determined. Germany very obviously did not wish to agree to this condition, for an international control would have revealed the extent of the rearmament already carried out in secret by the Reich in violation of the treaties. As a matter of fact, at a cabinet meeting which took place on 12 October 1933, the minutes of which have been found, Hitler had declared that he wished to "torpedo" the Disarmament Conference. In these conditions it is not surprising that the attempts made to resume negotiations with Germany after her withdrawal ended in failure.

When 18 months later Hitler's government decided to reestablish conscription and to create immediately an army which would, on a peace establishment, comprise 36 divisions, as well as to create a military air force, it was breaking the engagements which Germany had undertaken by the Treaty of Versailles. However, on 3 February 1935, France and Great Britain had offered to the Reich to resume its place in the League of Nations and to prepare a general disarmament convention which would have been substituted for the military Articles of the Treaty. At the moment when Hitler was on the point of obtaining, by means of free negotiation, the abolition of the "unilateral burden" which, as he said, the Treaty of Versailles laid on Germany, he preferred to escape any voluntary limitation and any control of armaments by a deliberate violation of a treaty.

When it decided on 7 March 1936, to denounce the Treaty of Locarno and to reoccupy at once the demilitarized Rhineland area, thereby violating Articles 42 and 43 of the Treaty of Versailles, the German government alleged that in so doing it was replying to the pact concluded and signed on 2 May 1935 between France and the U.S.S.R. and ratified on 27 February 1936 by the French Chamber of Deputies. It alleged that this pact was contrary to the Treaty of Locarno. This was a mere pretext which was taken seriously by nobody. The Nazi leaders wanted to start building the Siegfried Line as soon as possible in the demilitarized Rhineland area, in order to thwart a military intervention which France

might attempt in order to assist her Eastern allies. The decision of 7 March 1936 was the prelude to the aggressions directed against Austria, Czechoslovakia, and Poland.

Internally, rearmament was achieved thanks to a plan of economic and financial measures which affected every aspect of national life. The entire economic system was directed towards the preparation of war. The members of the government proclaimed priority of armaments manufacture over all other branches of production. Policy passed before economics. The Fuehrer declared: "The people must be resigned for some time to having its butter, fats, and meat not rationed in order that rearmament may proceed at the desired rate." The German people did not protest against this order. The State intervened to increase the production of substitute goods which would help to relieve the insufficiency of raw materials, and would enable the Reich, in the event of war, to maintain the level of production necessary for the Army and Air Force, even if imports were to become difficult or impossible. The



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defendant Goering, in September 1936, inspired the drawing up and directed the application of the Four Years' Plan which put Germany's economic system on a war footing. The expenses entailed by this rearmament were assured thanks to the new system of work treaties. The defendant Schacht, during the three and a half years he was at the head of the Reich Ministry of Economics brought into being this financial machinery and thereby played an outstanding role in military preparations as he himself recalled, after he left the Ministry, in a speech that he made in November 1938 at the Economic Council of the German Academy.

Germany thus succeeded in three years time to re-create a great army and to create on the technical plane an organization entirely devoted to future war. On the 5th of November 1937, when expounding his plan for home policy to his collaberators, Hitler was able to state that rearmament was practically completed.

3). While Hitler's government was giving to the Reich the economic and financial means for a war of aggression he was carrying on simultaneously the diplomatic preparation of that war by endeavoring to reassure the threatened nations during the period which was indispensable to him for rearmament and by endeavoring also to keep apart his eventual adversaries one from the other.

In a speech on 17 May, 1933, Hitler asserted that he did not intend to obtain by force a revision of the Treaty of Versailles although in that speech he asked for it. He stated that he admitted "the legitimate exigencies of all peoples" and he asserted that he did not want to "Germanize those who are not Germans." He wished to "respect the rights of other nationalities."

The German-Polish non-aggression pact concluded on 26 January, 1934, was reassured for a time the Warsaw government and to lull it into a state of false security, but it was principally intended to remove a means of action from French policy. In a work published in 1939 entitled "Deutschlands Aussenpolitik 1933-39," a semi-official writer, Professor Von Freytag-Loringhoven wrote that the essential purpose of this pact was to paralyze the action of the Franco-Polish alliance and to "over-throw the entire French system."

On 26 May 1935, ten days after denouncing the military clauses of the

Treaty of Versailles, Germany started negotiations with Great Britain which were to result in the naval agreement of 18 June 1935, negotiation which were intended to reassure British public opinion by showing it that while the Reich was desirous of becoming once more a great military power, it was not thinking of reconstituting a powerful fleet.

Immediately following the plebiscite of 13 January 1935 which decided the return of the Saar territory to the Reich, Hitler formally declared "that he would make not further territorial demands whatever on France." He was to use the same tactics towards France until the end of 1938. On 6 December 1938 Ribbentrop came to Paris to sign the Franco-German declaration which agreed "the frontiers as definite" between the two countries and which stated that the two governments were resolved "under reservation of their particular relations with third powers, to engage in mutual consultation in the event of questions of common interests which might show a risk of leading to international difficulties;" he was then still hoping, to quote the French ambassador in Berlin to "stabilize peace in the West in order to have a free hand in the East."

Did not Hitler make the same promises to Austria and Czechoslovakia? He signed on 11 July 1936 an agreement with the Vienese government, recognizing the independence of Austria, an independence which he was to destroy twenty months later. By means of the Munich agreement on 28 September 1938 he promised subsequently to guarantee the integrity of the Czech territory which he invaded less than six months later.

Nevertheless as early as 5 November 1937 in a secret conference held at the Reich Chancellery, Hitler had made known to his colleborators that the hour had struck to resolve by force the problem of the living-space required by Germany. The diplomatic situation was favorable to Germany. She had acquired superiority of armaments which ran the risk of being only temporary. Action should be taken without further delay.

Thereupon started the series of aggressions which have already been detailed to this court. It has also been shown to you that these various aggressions have been made in violation of international treaties and of the principles of International Law. As a matter of fact German propaganda did not challenge that at the time. It merely stated that those treaties and those principles "had lost any reality whatever with the passage of



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time." In other words, it simply denied that one's pledged word had any value, and that the principles which form the basis of International Law had become obsolete; this is a reasoning which is in line with the National Socialist doctrines which, as we have seen, do not recognize any International Law, and state that any means is justifiable if it is of a nature to serve the interests of the German race.

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(4) However, it is worth while looking into the various arguments which the propaganda made use of to justify the long-planned aggression.

Germany set forth, first of all, her vital interests. Can she not be excused for neglecting the rules of the rights of peoples when she was engaged in a struggle for the existence of her people? She needed economic expansion. She had the right and the duty to protect the German minorities abroad. She was obliged to ward off the encirclement which the Western powers were directing against the Reich.

Economic expansion was one of the reasons which Hitler put forward, even to his direct associates, in the secret conferences he held in 1937 and 1939 in the Reichschancellery. "Economic needs," he said, "are the basis of the policy of expansion of Italy and Japan. They also guide Germany".

But would not Hitler's Germany have been able to seek to satisfy these needs by peaceful means? Did she think of obtaining new possibilities for her foreign commerce through commercial negotiations? Hitler did not stop at such solutions. To solve the German economic problems, he saw only one way--the acquisition of agricultural territories--undoubtedly because he was incapbable of conceiving of these problems under any other form than that of "war economy". If he affirmed the necessity of obtaining this "agricultural space",--to use his own phrase,--it was because he saw therein the means of obtaining for the German population the food resources which would protect it against the consequences of a blockade.

The duty of protecting "the German minorities abroad" was the favorite theme which Germany's diplomacy made use of from 1937 to 1939. It could obviously not serve as an excuse for the destruction of the Czechoslovakian State or for the establishment of the "German Protectorate of Bohemia-Moravia". The fate of the "Sudenten Germans", that of the "Danzig Germans" was the leit-motif of the German press, of the Fuehrer's speeches and of Ribbentrop's propaganda speeches. Now, it is necessary to recall that in the secret conference of 5 November 1937

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in which Hitler draws up for his associates the plan of action to be carried out against the Czechoslovakian State, he does not say a ward about the " "Sudeten Germans", and to recall that in the conference of 23 May, 1939, he declares that Danzig is not the "principal point" of the German-Polish controversy? The "right of nationalities" was, therefore, in his mind only a propaganda method intended to mask the real design, which was the conquest of "living space".

The encirclement directed by the Western Powers against the Reich is the arguement which Hitler used when, on 28 April 1939, he denounced the Naval Agreement which he had concluded in 1935 with Great Britain. It occupied a great deal of space in the German White Book of 1939 relative to the origins of the war, but is it possible to speak of encirclement when Germany had, in May 1939, obtained the alliance with Italy and when, on 23 August 1939, she concluded the German-Russian Pact, and can we forget the diplomatic efforts of France and of Great Britain in respect to Greece, Rumania, Turkey, Poland are subsequent both to the destruction of the Czechoslovakian State and to the beginning of the German-Polish diplomatic conflict. Had not the British Prime Minister declared on 23 March 1939 before the House of Commons that British Policy had only two aims: to prevent Germany from dominating Europe and "to oppose a method which, by the threat of force, obliged the weak States to renounce their independence"? What Hitler Germany called "encirclement" was simply a fence belatedly built in an attempt to check measureless ambitions.

But German propaganda did not limit itself to this. Did we not witness one of its spokesmen make a parellel between the passivity of France and Great Britain in September 1938 and the resistance which they opposed in 1939 to the Hitler policy, from which it was concluded that the peace would have been maintained if the Western Powers had exercised pressure on Poland to bring it to accept the German demands, as they had exercised pressure the previous year on Czechoslovakia? A strange argument, which is equivalent to saying that Germany would have been willing not to make war if all the Powers had yeilded to her will. The excuse for the perpetrators of these violations is that France and Great Britain had for a long time opposed the violations of

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the rights of peoples by Germany by merely platonic protests.

Public opinion in France and Great Britain, deceived by Hitler's declarations, may have believed that the designs of National Socialism contemplated only settling the fate of German minorities; it may have hoped that there was a limit to German ambitions, and, ignorant as it was of the secret plans of which we have proof today, France and Great Britain allowed Germany to arm and re-occupy the Rhineland at the very moment when, according to the testimony of Ribbentrop, a military reaction on their part would, in March 1936, have placed the Reich in a critical situation; they permitted the aggression of March and September 1938, and it required the destruction of the Czechoslovakian State to make the scope of the German plans clear to the Allies. How can one be astonished that their attitude then changed and they decided to resist the German plans, and how could one still claim that the peace could have been "bought" in August 1939 by concessions, since the German secret documents prove that Hitler was determined on attacking Poland as early as May 1939 and that he would have been "deeply disappointed" if she had yielded and that he wished a general war?

In reality, the war was implied by the coming to power of the National Socialists; their doctrine inevitably led to it.

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CHAPTER IV

(1) As Sir Hartley Shawcross forcefully brought out before your High Tribunal, war of aggression is self-evidently a violation of international law and , more particularly, a violation of the General Treaty for the Renouncement of War of 27 August 1928, under the name of the Paris Pact, or the Kellogg-Briand Pact, of which Germany is one of the signatories. This pact continues to constitute a part of international law.

May I re-read Article I of this Treaty:

"The High Contracting Parties solemnly declare, in the name of their respective peoples, that they condemn recourse to war for the solution of international disagreements and renounce it as an instrument of national policy in their reciprocal relations"

Wars of aggression thus ceased in 1928 to be lawful.

Sir Hartley Shawcross told you with eloquence that the Paris Pact, a new law of civilized nations, was the foundation of a better European order. The Paris Pact, which remains the fundamental charter of the law of war, indeed marks an essential step in the evolution of the relations between states. The Hague Conventions had regulated the "law of the conduct of war". They had instituted the obligation of recourse to arbitration as a preliminary to any conflict. They had, essentially, established a distinction between acts of war to which international law and custom allow recourse and those which it prohibits. The Hague Convention had not reached the very principle of war placed beyond the juridical domain. This is, in fact, what is brought into being by the Paris Pact, which regulates "the right of declaration of war". Since 1928 international law of war has emerged from its framework of regulations. It has gone beyond the empiricism of the Hague Convention to qualify the legal foundation of recourse to force. All war of aggression is illegal, and the men who bear the responsibility for bringing it about deliberately place themselves beyond the law.

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What does this mean, if not that all acts committed as a consequence of this aggression for the carrying on of the struggle thus undertaken will cease to have the juridical character of acts of war?

May I quote this well-known passage from Pascal:

"Why do you kill me? Don't you live on the other side of the water? My friend, if you lived on this side, I would be an assassin, and it would be unjust to kill you as I am doing, but since you live on the other side, I am an honorable man, and this is just."

Acts committed in the prosecution of a war are assaults on persons and goods which are themselves prohibited and entail sanctions in all legislations. The state of war could make them legitimate only if the war itself was legitimate. Inasmuch as this is no longer the case, since the Briand-Kellogg Pact, these acts become purely and simply common law crimes. As Justice Jackson has already argued before you with irrefutable logic, any recourse to war is a recourse to means which are in themselves criminal.

This is the whole spirit of the Briand-Kellogg Pact. It was intended to deprive the States who accepted it of the right of having recourse in their national interests to a series of acts directed against the physical persons or against the properties of nationals of a foreign power. Given this formal commitment, those who have ignored it have given the order to commit a prohibited act by the common law of civilized states, and there is here involved no special rule of international law like that which existed previously and which left the said acts of war untouched by any criminal qualifications.

A war declared in violation of international law no longer really possesses the juridical character of a war. It is truly an act of gangsterism, a systematically criminal undertaking.

This war, or this would-be war, is in itself not only a violation of international law, but, indeed, a crime, since it signifies the outbreak of this systematically criminal enterprise.

Inasmuch as they could not legally have recourse to force,

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those who dictated it, and who were the very organs of the state bound by solemn promises, must be considered as the very source of the numerous assaults upon life and property that are severely punished by all penal law.

One cannot, however, deduce from the preceding the individual responsibility of all the perpetrators of acts of violence. It is obvious that, in an organized modern state, responsibility is limited to those who act directly for the state, they alone being in a position to estimate the lawfulness of the orders given. They alone can be prosecuted, and they must be prosecuted. International law is sufficiently powerful to prevent the prestige of the sovereignty of states from being reduced to impotence. It is not possible to maintain that crimes against international law must escape repressive action because, for one thing, the state is an entity which one cannot impute criminal intention and upon which one cannot inflict punishment, and, for another, no individual can be held responsible for the acts of the state.

On the other hand, it can not be objected that, in spite of the illegality of the principle of recourse to force by Germany, the other states have admitted that war existed and speak of the application of international law in time of war. It must in fact, be noted that, even in the case of civil war, the parties have often invoked these rules which, to a certain extent, canalize the use of force. This in no wise involves or inplies acquiesence in the principle of its use and , indeed, when Great Britain and France communicated to the League of Nations the fact that a state of war existed between them and Germany as of 3 September 1939, they also declared that in committing an act of aggression against Poland, Germany had violated its obligations, assumed not only with regard to Poland but also with regard to the other signatories of the Paris Pact.

Recourse to war assumes preparations and decision; it would be futile to prohibit it if it was intended to inflict no

chastisement upon those who knowingly have recourse to it and have the power of choosing a different path. They must, indeed, be considered the direct instigators of the acts qualified as crimes.

It is evident from all this that the statute of 8 August only established a jurisdiction making it possible to judge what was already an international crime, not only before the conscience of humanity but before the rights of people even before the Tribunal was established.

(2) It it is not contested that a crime has really been committed, is it possible to contest the competence of the International Tribunal to judge it?

There can, indeed, be no doubt that the states bound by the treaty of 1928 had engaged their international responsibilities in regard to the co-signatories, should they act in a way contrary to the agreements undertaken.

International responsibility normally involves the collective state as such without in principle involving the individuals who have been perpetrators of an illegal act. It is within the framework of the state that there may be invoked an international responsibility and that, as a general rule the conduct of the men who are responsible for this violation of international law may be appraised. They are subject, as the case may be, to political responsibility or to penal responsibility before the competent jurisdictions./

/ The reason for this is that normally the framework of the state comprises the nationals; the order of the state assumes the exercise of justice over a given territory and with regard to the individuals whom it includes, and the failure of the state in the exercise of this essential mission is followed by the reaction and the protests of third powers, notably when their own nationals are involved.

But in the present situation, there is no German state.



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Since the surrender declaration of 5 June 1945 and until the day when a government shall have been established by the agreement of the Four Occupying powers, there will be no organ representing the German State. Under these conditions, it can not be considered that there exists a German State juridical order capable of drawing the consequences of a recognition of the responsibility of the Reich for the violation of the Briand-Kellogg Pact with regard to individuals who are, in fact, the perpetrators of this violation in their capacity as organs of the Reich.

Today the supreme authority is being exercised over the whole German territory in regard to the whole of German population by the Four Powers acting jointly. It must, therefore, be allowed that the states which exercise the supreme authority over the territory and population of Germany can bring the guilty before a jurisdiction. Otherwise, the proclamation that Germany has violated the solemn covenant which it has undertaken becomes meaningless.

There is involved, a criminal responsibility assumed for a series of acts, qualified as crimes committed in respect of the nationals of the United Nations. These acts, which are not juridically acts of war but which have committed as such upon the instigation of those who bear the responsibility for the unleashing of the so-called war, who have committed aggression upon the lives and the property of nationals of the United Nations, may, by virtue of the territorial principle and as we have argued above, be brought before a jurisdiction constituted to this effect by the United Nations, even as war crimes, properly speaking, are now being brought before the tribunals of each country whose nationals have been their victims.



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1). Crimes committed by the Nazis in the course of the war, like the war of aggression itself, will be, as Mr. Justice Jackson has demonstrated to you, the manifestation of a concerted and methodically executed plan.

These crimes flow directly, like the war itself, from the National Socialist doctrine. This doctrine is indifferent to the moral choice of means to attain a final success, and for this doctrine the aim of war is pillage, destruction and extermination.

Total war, totalitarian war in its methods and its aims, is dictated by the primacy of the German race and the negation of any other value. The Nazi conception maintains selection as a natural principle. The man who does not belong to the superior race counts for nothing. Human life and liberty, personality, the dignity of man even less, have no importance when an adversary of the German community is involved. It is truly "the return to barbarism" with all its consequences. Logically consistent, National Socialism goes to the length of assuming the right totally to exterminate either races regarded as hostile or decadent, or individuals and groups capable of resistance in the nations to be subjugated and put to use. Does not the idea of totalitarian war imply the annihilation of any eventual resistance? All those who in any way may be capable of opposing the New Order hegemony will be liquidated. It thus becomes possible to assure an absolute domination over a neighboring people reduced to impotence and to utilize, for the benefit of the Reich, the resources and the human material of these people reduced to slavery.

All the former conceptions which tended to humanize war are obviously outdated; more than this, all international conventions which had undertaken to bring some extenuation of the evils of war.

The conquered peoples must concur willingly or by force in the German victory by their material resources, as well as by their labor potential. Means will be found to subject them.

The treatment to which the occupied countries will be subjected is likewise related to this war end. As one could read in Deutsche Volkstraft of 13 June 1935:

"The totalitarian war will end in a totalitarian victory. 'Totalitarian' signifies the entire destruction of the conquered nation



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and its complete and final disappearance from the historic scene."

Among the conquered peoples distinctions can be made according to whether the National Socialists consider them as belonging or not belonging to the Master Race. For the first, an effort is made to integrate them into the German Reich in spite of themselves. For the latter, there is applied a policy of weakening them and bringing about their extinction by every means from that of appropriation of their property to that of extermination of persons. In regard to both groups, the Nazi rulers assault not only the property and physical persons, but also the spirits and souls. They seek to allign the populations according to the Nazi dogma and behavior when they wish to integrate them in the German community; they apply themselves at least to rooting out whatever conceptions are irreconcilable with the Nazi universe; they aim to reduce to a mentality and status of slaves those men whose nationality they wish to eradicate for the benefit of the German race.

Inspired by these general conceptions as to the conduct to observe in occupied countries, the defendants gave special orders or general directives or deliberately associated themselves with these. Their responsibility is that of perpetrators, co-perpetrators or accomplices in the war crimes systematically committed between 1 September 1939 and 8 May 1945 by Germany at war. They deliberately willed, premeditated and ordered these crimes, or knowingly associated themselves with this policy of organized criminality.

We shall expose the aspects of this policy of criminality as it was pursued in the occupied countries of Western Europe by dealing successively with forced labor, economic looting crimes against persons, and crimes against humankind.

2). The conception of total war, which gave rise to all the crimes which were to be perpetrated by the Nazi Germans in the occupied countries, was at the basis of the forced labor service. Through this institution, Germany proposed to utilize to the maximum the labor potential of the enslaved populations in order to maintain the German war production at the necessary level. Moreover, there can be no doubt that this institution was linked with the German plan of "extermination through labor" of the populations adjoining Germany which she regarded as dangerous or inferior.



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A document of the Supreme Command of the Armed Forces of Germany, dated 1 October 1938, provided for the forced employment of prisoners and civilians for war labor. Hitler in his speech of 9 November 1941 "did not doubt for a moment that in the occupied territories which we control at present, we shall make the last man work for us."

From 1942 on, it is under the admitted responsibility of the defendant Sauckel, acting together with the defendant Speer, under the control of the defendant Goering, General Plenipotentiary of the Four Year Plan, that obligatory foreign labor for the benefit of the war conducted by Germany received its whole development.

The most various methods of constraint were utilized simultaneously or successively:

First: Requisition of services under conditions incompatible with Article 52 of the Hague Convention;

Second: So-called voluntary labor, which consisted of bringing a worker under pressure to sign a contract to work in Germany;

Third: Conscription for obligatory labor;

Fourth: The forcing of war prisoners to work for the German war production and their transformation in certain cases into so-called free workers;

Fifth: The enrolling of certain foreign workers, notably French (Alsatians, Lorrainians) and Luxemburgers in the German Labor Front.

All these procedures constitute crimes contrary to the laws of peoples and in violation of Article 52 of the Hague Convention.

These service requisitions were made under threat of death. Voluntary labor recruiting was accompanied by individual measures of constraint, obliging the workers of occupied territories to sign contracts. The duration of these pseudo-contracts was subsequently prolonged unilaterally and illegally by the German authorities.

The failure of these measures of requisition or the voluntary recruitment of labor led the German authorities everywhere to have recourse to conscription. Hitler declared on 19 August 1942 in a conference on the Four Year Plan which was reported by the defendant Speer, that Germany "had to proceed to forced recruiting if sufficient labor was not obtained on a voluntary basis." On 7 November 1943 the defendant Jodl declared in



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the course of a speech given in Munich before the Gauleiters, "In my opinion the time has come to take vigorous, resolute, unscrupulous measures in Denmark, in Holland, in France and in Belgium in order to force thousands of idle men to carry out the all-important work of fortification."

Having accepted the principle of force, the Germans made use of two complementary methods: legal constraint, consisting of promulgating laws regulating obligatory labor; and restraint in fact, consisting of taking necessary measures to oblige workers under penalty of grave sanctions to conform to the announced legislation.

At the basis of the legislation on forced labor is the decree of 22 August 1942 of the defendant Sauckel, who formulated the charter of forced recruiting in all the occupied countries.

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In France, Sauckel got the so-called Government of Vichy to publish the law of 4 September 1942. This law effected the freezing of all manpower in industries and anticipated the possibility of a requisition of all Frenchmen who might be employed in any work useful to the enemy. All Frenchmen from eighteen to fifty years of age who did not have a job which occupied them more then thirty hours per week had to prove that they were usefully employed to meet the needs of the country. A decree of 19 September 1942 and an enabling directive of 22 September provided regulation for the various provisions of this decree. The law of 4 September 1942 had been published by the so-called Government of Vichy, following strong pressure exercised by the occupation authorities. Specifically, Dr. Michel, Chief of the Administrative Staff of the German Military Command in France, wrote on 26 August 1942 a threatening letter to the delegate General for Franco-German Economic Relations, requesting him to see that the law was published.

In 1943, Sauckel obtained from the defacto authority a directive under date of 2 February stipulating a census of all male Frenchmen born between 1 January 1912 and 31 December 1921. He also obtained the passing of the law of 16 February, establishing the Bureau of Compulsory Labor for all young men from twenty to twenty-two years of age. On 9 April 1943, Gauleiter Sauckel requested the deportation of 120,000 workers for the month of May and another 100,000 for the month of June. To accomplish this, the so-called Government of Vichy put into force the total mobilization of the military conscription class of 1942. On 15 January 1944, Sauckel requested the defacto French authorities to deliver a thousand men for the first six months of the year and he caused the adoption of the regulation designated as the Law of 1 February 1944, which extended the possibility of impressing all men from sixteen to sixty years of age and women from the age of eighteen to forty-five for forced labor.

Similar measures were taken in all occupied countries.

In Norway, the German authorities imposed on the so-called Government of Quisling the publication of a law under date of 3 February 1943, which instituted the compulsory registration of Norwegian citizens and prescribed their forced enrollment. In Belgium and in Holland, the Bureau of compulsory Labor was organized directly by ordinances of the occupying power. In Belgium the ordinances were promulgated by the military command, and in Holland by the defendant Seyss-Inquart, who was Reich Commissar for the occupied Netherland

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territories. In both of these countries the development of compulsory labor policy followed the same pattern. Compulsory labor was at first instituted only within the occupied territories. It was soon extended in order to permit the deportation of workers to Germany. This was achieved, in the case of Holland, by the ordinance of 26 February 1941, and in Belgium by the ordinance of 6 March 1942 which established the principle of forced labor. The principle of deportation was formulated in Belgium by means of the ordinance of 6 October 1942, and in Holland by the ordinance of 23 March 1942.

In order to insure the efficiency of these legal provisions, legal compulsion was exercised in all countries, numerous roundups in all large cities. For example, 50,000 persons were arrested in Rotterdam on 10 and 11 November 1944.

Even more serious than the forced labor of civilian population was the incorporation of laborers from occupied countries in the labor service of the Reich. This incorporation was not merely the conscription of laborers but meant in fact the application of German legislation to the nationals of occupied countries.

In the face of the patriotic resistance of the workers of the different occupied countries, the important results which the German Labor Office had anticipated were far from being fulfilled. However, a large number of workers from the occupied countries were forced to work for the German war effort.

With regard to the Todt Organization, the laborers who were employed in the West in the construction of the Atlantic Wall totalled 248,000 at the end of March 1943. In the year 1942, 3,300,000 workers from occupied countries worked for Germany in their own country. 300,000 of these were in Norway, 249,000 in Holland, 650,000 in France. The number of workers deported to Germany and coming fromthe occupied territories in the West increased in 1942 to the figure of 131,000 Belgians, 135,000 Frenchmen, 154,000 Hollanders. On 30 April 1943, 1,293,000 workmen, of whom 269,000 were women, coming from the occupied territories in the West were working for the German War Economy. On 7 July 1944, Sauckel stated that the number of workers deported to Germany during this first six months of 1944 reached a total of 537,000 of which 33,000 were Frenchmen. On the 1st of March 1944 he acknowledge during a conference held by the Central Office of the Four Year Plan, that there were in Germany 5,000,000 foreign workers, of whom 200,000 were actually volunteers.

The report of the French Ministry for prisoners of war, deportees and refugees, gives the figure of 715,000 for the total number of men and women

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who had been deported.

It should be added that contrary to International Law, the workers who were transported to Germany had to work under working conditions that were incompatible with the most rudimentary regard for human dignity. The defendant Sauckel has himself stated that foreign workers who could achieve substantial production should be fed so that they could be exploited as completely as possible with the minimum of expense, adding that they should receive less food the moment their production began to decrease and that no concern should be given to the fate of those whose production level no longer presented any interest. Special reprisal camps were organized for those who sought to avoid the compulsion imposed on them. An order of 21 December 1942 stipulated that unwilling workers should be sent without trial to such camps. In 1943, Sauckel during an inter-ministerial conference stated that the cooperation of the SS was essential to him in order to fulfill the task with which he had been entrusted. Thus the crime of forced labor and of deportation gave rise to a whole series of additional crimes against persons.

The work required of prisoners of war did not remain within the legal limits authorized by International Law any more than did that of the civilian laborers. National Socialist Germany obliged prisoners of war to work for the German war production, in violation of Articles 31 and 32 of the Geneva Convention.

3) - National Socialist Germany, while exploiting to the fullest extent for the war effort prisoners of war as well as workers from occupied countries, against all international conventions, was at the same time seizing by every possible means the wealth of these countries. German authorities applied systematic pillage in these countries. By economic pillage we mean both the taking away of goods of every type and the exploitation on the spot of the natural resources for the benefit of Germany's war.

This pillage was methodically organized.

The Germans began by making sure that they had in their possession in all countries the necessary means for payment. Thus they insured that they could seize, with the appearance of legality, the wealth which they coveted. After freezing the existing means of payment, they required enormous payments under the pretext of indemnity for the maintenance of occupation troops.

It should be recalled that according to the terms of the Hague Convention occupied countries may be obliged to assume the burden of the expenses caused by the maintenance of an army of occupation. But the amounts that were exacted

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under this by the Germans were far removed from the actual costs of occupation.

Moreover, they forced the occupied countries to accept a clearing system which operated practically for the exclusive profit of Germany. Imports from Germany were almost non-existent; the goods exported to Germany were subject to no regulation.

In order to maintain for the purchasing balance thus created a considerable purchasing power, the Germans endeavored everywhere to achieve the stabilization of prices and imposed a severe rationing system. This rationing system, which left for the population a quantity of goods which was less than the minimum indispensable for their existence, afforded the additional advantage of preserving for the benefit of the Germans the greatest possible portion of the production.

Thus, the Germans seized a considerable part of the stocks and of the production, as a result of operations which had the appearance of legality (requisitions, purchases made with German priority coupons, individual purchases). These transactions were completed by other operations of a clandestine character which were carried out in violation of the official regulations imposed frequently by the Germans themselves. Thus the Germans had created a whole organization for black market purchases. For example, one may read in a report of the German Foreign Ministry of 4 September 1942 that the defendant Goering had ordered that purchases on the black market should thenceforth extend to goods which until then had not been included, such as household goods, and he prescribed further that all goods which could be useful to Germany should be collected, even if as a result certain systems of inflations appeared in the occupied countries.

While they were transporting to Germany the maximum quantity of goods of every description, after requisitioning them without payment or by paying with bills which they had irregularly obtained by a simple entry in the clearing account, the Nazi leaders were at the same time endeavoring to impose the resumption of activity in industry for the benefit of Germany's war.

German industrialists had received instructions ordering them to divide amongst themselves the enterprises in the occupied areas which had engaged in a production similar to their own. While forcing them to fill out orders, these industrialists were required to place such industries in occupied countries firmly under their control by means of different types of financial combinations.

The appearance of monetary legality or contractual legality could in no

ways hide the fact that the economic looting was systematically organized, contrary to the stipulations of the International Convention of the Hague. If, according to the stipulations of this convention, Germany had the right to seize whatever was indispensable for the maintenance of the troops necessary for the occupation, all seizures in excess of these requirements undoubtedly constitute a war crime which brought about the economic ruin of the occupied countries, a long-range weakening of their economic potential and of their means of subsistence, as well as the general undernourishment of the populations. Exact estimates of German transaction in the economic field cannot be formulated at this time. It would be necessary for this purpose to study the details of the economic activities of several countries over a period of more than four years.

Nevertheless it has been possible to bring out certain facts and to give minimum estimates of German spoliations in regard to the different occupied countries.



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In Denmark, which was the first country in western Europe to be invaded, the value of German seizures was nearly 9,000,000,000 crowns. In Norway, Germany's spoliations exceed a total value of 20,000,000,000 crowns.

In the Netherlands, German pillage was effected to such an extent that a although Holland is one of the richest countries in the world in relation to its population, it is today almost completely ruined and the financial charges imposed by the occupant exceed 20,000,000,000 florins.

In Belgium, through various schemes, notably the system of occupation indemnity and clearing, the Germans seized far more than 30,000,000,000 francs of payment balances. The Grand Duchy of Luxembourg also suffered important losses as a result of the action of the occupying power.

Finally in France the seizures on means of payments reached a total of 745,000,000,000 francs. In this sum we have not included the 74,000,000,000 which represents the maximum figure which Germany could legally demand for the maintenance of her army of occupation. (Moreover, the seizure of 9,500,000,000 in gold was calculated according to the rate of 1939.)

In addition to the goods settled for in the occupied countries by means of payment which had been forcibly seized from these countries, enormous quantities of goods of every character were purely and simply requisitioned without any indemnity, seized without any explanation, or stolen. The occupying authorities took not only all raw materials and manufactured goods which could be useful to their war efforts, but they extended their seizures to everything that might help to procure them a credit balance in neutral countries, such as real estate, jewels, luxury goods and objects. Finally, the artistic treasures of the countries of western Europe were likewise looted in the most shameful manner.

The considerable amounts which Germany was able to obtain by abusing her power contrary to all the principles of International Law, without providing any counterpart, enabled her to carry out with the appearance of legality the economic looting of France and of the other countries of western Europe. The consequence for these countries, from the economic viewpoint, is a loss of their strength which will take many years to repair.

But the greatest consequence of these practices affected the population itself. For more than four years, the people of the occupied countries were exposed to a regime of slow starvation, which resulted in an increase in the death rate, a breaking down of the physical stamina of the population and, above all, an alarming deficiency in the growth of children and adolescence.

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Such practices perpetrated and consummated systematically by the German leaders contrary to International Law and specifically the Hague Convention, as well as contrary to the general principle of criminal law in force in all civilized nations, constitute war crimes for which they must answer before this Tribunal.

4) - Crimes against the physical person. Arbitrary imprisonment, ill treatments, deportations, murder even, committed by the Germans in the occupied countries reached proportions beyond what could be imagined even in the course of a world conflict. These crimes took the most odious forms.

Such crimes spring directly from the Nazi doctrine and testify among the leaders of the Reich to an absolute scorn for the human individual, to the abolition of any sense of justice or even of pity, to a total subordination of any human consideration unless it be to the interest of German collectivity.

All these crimes are related to a policy of terrorism. Such a policy permits the subjugation of occupied countries without involving a large deployment of troops submissive to anything that might be demanded of them. Many of these crimes are moreover related to the will to exterminate. We shall examine in succession executions of hostages, police crimes, deportations, crimes involving prisoners of war, terroristic activities against the Resistance and the massacre of civilian populations.

A - The execution of hostages constitutes in all countries the first acts of terrorism on the part of German occupation troops. As early as 1940, the German High Command in France notably, carried out numerous executions as reprisals for any crime against the German army.

These practices contrary to Article 50 of the Hague Convention which forbids collective sanctions, awaken everywhere a sentiment of horror and frequently produce a result contrary to the one sought, by arousing the populations against the occupant.

The occupying authorities then endeavored to legalize such criminal practices thus seeking to have them recognized by the populations as "the right of the occupying power. Veritable "codes for hostages" are promulgated by the German military authorities.

Following the general order issued by the defendant, Keitel, on 16 December 1941, Stuelpnagel published in France his ordinance of 30 September 1941. According to the terms of this ordinance, all Frenchmen held by German authorities for any reason whatsoever will be considered as hostages, as well as all

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Frenchmen who are in the custody of the French authorities on behalf of German organizations. The ordinance of Stuelpnagel specifies: "at the time of the burial of the bodies, burial in a common grave of a rather large number of persons in a particular cemetery must be avoided since this would create a shrine for pilgrims which now or later might become a center for the stimulation of anti-German propaganda."

In the execution of this ordinance the most tragic known executions of hostages were carried out.

Following the murder of two German officers, one in Nantes on 2 October 1941, and the other at Bordeaux a few days thereafter, the German authorites had 27 hostages shot at Chateaubriant, and 21 at Nantes.

On 15 August 1942, 96 hostages were shot at Mont-Valerien.

In September 1942, an assault had been committed against German soldiers in the Rex moving picture house in Paris. 116 hostages were shot. 46 hostages were taken from the hostage depot of the Fortress at Romainville and 70 from Bordeaux.

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In reprisal for the murder of a German official of the labor front, 50 hostages were shot in Paris at the end of September 1943.

The threat of reprisals on the families of the patriots of the resistance is allied to the same hateful policy of hostages. The commanding officer published the following notice in the Pariser-Zeitung of 16 July 1942: "near male relatives, brothers-in-law and cousins of the agitators above the age of 18 years shall be shot.

"All female relatives of the same degree shall be condemned to forced labor."

"Children of less than 18 years of all the above-designated persons shall be sent to a house of correction".

The execution of hostages continued everywhere until the liberation, but in the last period they were no more than one additional feature in the methods of German terrorism, then grown more sweeping.

B- Among the crimes against persons of which the civilian populations of the occupied countries of the West were victims, those committed by the Nazi police organizations are among the most revolting.

The intervention of the German police who, in spite of certain appearances, did not belong to the armies of occupation, is in itself contrary to international law.

Its crimes, particularly hateful in the complete disregard for human dignity that they imply, were multiplied during four years throughout all the territories of the West occupied by German forces.

True, no definite order, no detailed directive emanating directly from one of the defendants or from one of their immediate subordinates and valid for all the German police or for the police of the occupied territories of the West, has been found. But these crimes were committed by a police that was direct expression of the National Socialist ideology and the undeniable instrument of National Socialist policy for which all the defendants carry the full and entire responsibility.

Before the considerable mass of acts, their similarity, their simultaneity, their generalization in time and place, no one would be able to deny that these acts are not only the individual responsibility of those who committed them here or there, but constitute as well the execution of orders from above.

The arrests took place without any of the elementary guarantees recognized in all civilized countries. On a simple unverified denunciation, and without

previous investigation, and often without the persons who brought the charges being qualified to bring them, masses of arbitrary arrests took place in every occupied country.

During the first period of the occupation, the Germans nevertheless simulated a scrupulous respect for "legality" in the matter of arrests. This legality was that introduced by Nazism in the interior of Germany and did not respect any of the traditional guarantees to which the individuals in civilized countries are entitled. But rapidly even this pseudo-legality was abandoned and the arrests became absolutely arbitrary.

The worst treatments were applied to arrested persons even before the culpability of the accused has been examined. The use of torture in the interrogations was almost a general rule. The tortures usually applied are beating, whipping chaining for several days without a moment of rest for nourishment or hygienic care. Immersion in ice water, drowning in a bathtub, charging the bathwater with electricity, electrification of the most sensitive parts of the body, burns at certain places on the body, tearing out of finger-nails. But, moreover, those who carried out the measures had every latitude for unleashing of their instinct of cruelty and of sadism with respect to their victims. All these facts which were of public knowledge in the occupied countries never occasioned any penalty whatsoever against their authors on the part of the responsible authorities. It even seemsthat the torture was more severe when an officer was present.

It is incontestable that the actions of the German police toward the prisoners were part of a premeditated system of criminality ordered by the chief of the regime and executed by the most faithful members of the National Socialist organizations.

Aside from the general use of torture on prisoners, the German police perpetrated a considerable number of murders. It is impossible to know the conditions of many of these murders. Nevertheless we have enough information to permit us to discover in them a new expression of the general policy of the National Socialists in the occupied countries. Often the deaths were only the result of the tortures inflicted on the prisoners, but often the murder was deliberately decided upon and executed.

C. - The crime which will doubtless remain the most tragically memorable among those committed by the Germans against the civilian populations of the occupied countries was that of deportation and internment in the concentration camps of Germany.



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These deportations had a double aim: to assure supplementary work for the benefit of the German war machine, to eliminate the occupied countries and progressively exterminate the elements most opposed to Germanism. They served equally to empty prisons overcrowded with patriots and to remove the latter for good.

The deportations and the methods employed in the concentration camps were a stupefying revelation for the civilized world. Nevertheless they also are only a natural consequence.

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of the National Socialist doctrine, according to which man has no value in himself when he is not in the service of the German race.

It is not possible to give exact figures. It is probable that one would remain under the truth in speaking of 250,000 for France, 6,000 for Luxembourg, 5,200 for Denmark, 5,400 for Norway, 120,000 for Holland, 37,000 for Belgium.

The arrests are founded now on a pretext of political order, now on a pretext of racial order. In the beginning they were individual; subsequently they took on a collective character, particularly in France from the beginning of 1941 on. Sometimes the deportation did not come until after long months of prison, but most often the arrest was made directly with a view to deportation under the regime of "protective custody". Everywhere imprisonment in the country of origin was accompanied by brutality, often by torture. Before being sent to Germany, the deportees were in general concentrated at an assembly camp. The formation of a convoy was often the first stage of extermination. The deportees traveled in cattle cars, 80 to 120 per car, no matter what the season. There were few convoys where no deaths occurred. In certain transports the proportion of deaths was more than 25%.

The deportees were sent to Germany, almost always to Concentration Camps but sometimes to prisons too.

The prisons took in those deportees who had been condemned or were awaiting trial. The prisoners there were crowded together under inhuman conditions. Nevertheless the way the prisons were run was generally less severe than was the case with the camps. The work there was less out of proportion to the strength of the prisoners and the prison wardens were less hard than the SS in the concentration camps.

It appears to have been the plan followed by the Nazis in the concentration camps gradually to do away with the prisoners, but only after their working strength had been used to the advantage of the German war effort.

The Court has been told of the almost inconceivable treatment inflicted by the SS on the prisoners. We shall take the liberty of going into still further detail during the course of the statement of the French Public Prosecutor, for it should be fully known to what extent the Germans inspired by National-Socialist doctrine could stoop to honor.

The most terrible aspect is perhaps the desire to create moral degradation and debasement in the prisoner until he loses, if this is possible, all semblance of a human individual.

The usual living conditions imposed on deportees in the camps were sufficient to ensure slow extermination through inadequate feeding, bad sanitation, the cruelty of the guards, the severity of the discipline, the strain of work out of proportion to the strength of the prisoner, and the haphazard medical service. Moreover you already know that many did not die a natural death, but were put to death by injections, the gas chamber, or from being inoculated with fatal diseases.

But more speedy extermination was often the case, it was often brought about by ill treatment: communal ice-cold showers in winter in the open air, prisoners left naked in the snow, cudgelling, dog bites, hanging by the wrists. Some figures will illustrate the result of these various methods of extermination. At Buchenwald, during the first period of 1945 there were 13,000 deaths out of 40,000 internees. At Dachau 13 to 15,000 died in the 3 months preceding the liberation. At Auschwitz, camp of systematic extermination, the number of murdered persons came to several million.

As to the total number of those deported from France, the official figure is as follows:

Of 250,000 deported only 35,000 returned.

The deportees served as guineapigs for numerous medical, surgical or other experiments which generally led to their death. At Auschwitz, at Strutoff, in the prison at Cologne, at Ravensbruck, at Neungeamme, numerous men, women and children were sterilized. At Auschwitz the most beautiful women were set apart, artificially fertilized and then gassed. At Struthoff a special barrack, isolated from the others, by barbed wire, was used to inoculate men in groups of 40 with fatal illnesses. In the same camp women were gassed whilst German doctors observed their reactions through a peephole arranged for this purpose.

Extermination was often directly effected by means of individual or collective executions. These were carried out by shooting, by hanging, by injections, by gas lorry or gas chamber.

I do not wish to further stress the facts, already so numerous, submitted to your High Tribunal during the preceding days by the American Prosecutor, but the representative of France, so many of whom have died in these camps after



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horrible sufferings, could not pass in silence this tragic example of complete inhumanity. This would have been inconceivable in the 20th century if a doctrine of return to barbarism had not been established in the center of Europe.

D) Crimes committed against prisoners of war, although less known, bear ample testimony to the degree of inhumanity which Nazi Germany had attained.

To begin with the violations of international conventions committed against prisoners of war are numerous. Many were forced to travel on foot, almost without food, very long distances. Many camps had no respect for even the most elementary rules of hygiene. Food was very often insufficient; thus a report from the OKW of the WFSP dated 11 April 1945 and annotated by the defendant Keitel, shows that 82,000 prisoners of war interned in Norway received the food strictly indispensable to the maintenance of life on the assumption that they were not working, whereas 30,000 of them were really employed on heavy work.

In agreement with the defendant Keitel, acting at the request of the defendant Goering, camps for prisoners belonging to the English and American Air Forces were established in towns which were exposed to air raids.

Contrary to the text of the Geneva Convention, it was decided, at a conference held at the Fuehrer's Headquarters on the 27 January 1945, in the presence of the defendant Goering, to pass the death sentence on all attempts to escape made by a prisoner of war when in convoy.

Besides all these violations of the GenevaConvention, numerous crimes have been committed by the German authorities against prisoners of war: execution of captured allied airmen, murder of commandos, collective extermination of certain prisoners of war for no reason whatsoever, e.g. of 120 American soldiers at Malmedy on 27 January 1945. Parallel with "Nacht und Nebel", expression for the inhuman treatment inflicted on civilians, can be put down "Sonderhandlung," "special treatment" of prisoners of war when these disappeared in great numbers.

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The same barbarity is found in the terroristic action carried out by the German Army and police against the Resistance.

The Order of the Defendant Keitel of the 16th September 1941, which may be considered as a basic document, certainly has as a purpose the fight against the Communist movements but it foresees that resistance to the army of occupation can come from other than Communist sources and decides that every case of resistance is to be interpreted as having a Communist origin.

As a matter of fact, in carrying out this general order to annihilate the Resistance by every possible means, the Germans arrested, tortured and massacred men of all conditions and of all social classes.

To be sure, the members of the Resistance rarely complied with the conditions laid down by the Hague Conventions, which would qualify them to be considered as regular combatant forces. They could be sentenced to death as francs-tireurs and executed; but they were assassinated without trial in most of the cases, often after having been terribly tortured.

After the Liberation, numerous charnel-houses were discovered and the bodies examined by doctors. They bore evident traces of extremely brutal treatment. The skin and flesh had been torn from their heads, the spinal column had been dislocated, the ribs had been so badly fractured that the chest had been entirely crushed and the lungs perforated, hair and nails had been pulled out.

It is impossible to determine the total number of the victims of German atrocities in the struggle for the Resistance. The number is certainly very high. In the department of the Rhone alone, for example, the bodies of 713 victims were discovered after the Liberation.

An order of the 3rd of February 1944, of the High Command of the Western Forces, signed P.O. General Sperrle, laid down for the struggle against the terrorists the immediate reply by fire-arms and the immediate burning down of all houses from which shots had come. "It is of little importance" the text adds, "that innocent people should suffer. It will be the fault of the terrorists. All commanders of troops who will show weakness in repressing the terrorists will be severely punished. On the other hand those who exceed the orders received and are too severe, will incur no penalty."

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The War Diary of von Brodowski, commanding the Chief Liaison Staff No. 588, at Clermont--Ferrand, gives irrefutable examples of the barbarous forms which the Germans gave to the struggle against the Resistance. The resisters caught were almost all shot on the spot. Others were turned over to the SD or to the Gestapo to be first subjected to torture. The Diary of Brodowski mentions "the cleaning up of a hospital" or "Liquidation of an infirmary."

The struggle against the Resistance had the same atrocious character in all the occupied territories of the West.

F). The last months of the German occupation were characterized in France by strengthening of the policy of terrorism which multiplied the crimes against the civilian populations. The crimes which we are going to consider were not isolated acts committed from time to time in such or such locality, but were acts perpetrated in the course of extensive operations; the high number of which can only be explained by general orders.

The perpetrators of these crimes are frequently members of the SS, but the military command shares responsibility for them. In a directive entitled "Fight Against the Partisan Bands," dated the 6th of May 1944, the defendant Jodl states that "the collective measures to be taken against the inhabitants of entire villages (including the burning down of these villages) are to be ordered exclusively by the division commanders or the heads of the SS troops and of the police."

The War Diary of von Brodowski mentions the following: "It is an understood thing that the leadership of the S.I.P.O. and of the S.V. shall remain subordinate to me."

All these operations are supposedly measures of reprisal which were caused by the action of the Resistance; but the necessities of war have never justified the plundering and heedless burning down of towns and villages or the blind massacres of innocent people. The Germans killed, plundered, burned down, very often without any reason whatsoever, whether in the regions and departments of the Ain, in Savoy, Lot, Tarn-and-Garonne, in Vercors, Corrèze or Dordogne. Entire villages were burned down when at the time the nearest armed groups of the Resistance were tens of kilometres away and the population of these villages had not made a single hostile gesture towards German troops.

The two most typical examples are those of Maille (in Indre and Loire) where on the 25 of August 1944, 52 buildings out of 60 were destroyed and 124 people were killed; and that of Oradour-Sur-Glane (in the Haute-Vienne). The War Diary of von Brodowski makes mention of the latter act in the following manner:

"All the male population of Oradour was shot. The women and children took refuge in the church. The church caught fire. Explosives were stored in the church. (This assertion has been shown to be false.) All the women and all the children perished."

5). In the scale of criminal undertakings perpetrated in the course of the war by the leaders of National Socialist Germany, we finally meet a category which we have called: Crimes against humanity.

First of all it is important that I should clearly define for the Tribunal the meaning of this term. This classical French expression belongs both to the technical vocabulary of law and to the language of philosophy. It designates all of those faculties, the exercising and developing of which rightly constitute the meaning of human life. Each of those faculties finds its corresponding expression in the regulation of the existence of mankind in society. Its belonging to at least two social groups--the nearest and the most extensive--is translated by the right to family life and to nationality. Its relations with the powers constitute a system of obligations and guarantees. Its material life as producer and consumer of goods is expressed by the right to work in the widest meaning of this term. Its spiritual aspect implies an ensemble of possibilities to give out and receive the expressions of thought, whether in assemblies or associations, in religious practice, in teachings given or received, by the many means which progress has put at the disposal of intellectual propaganda books, the press, radio, cinema. This is the right of spiritual liberty.

Against this humanity, against the statutes of private and public law, concerning human beings in occupied territories, the German Nazis directed a systematic policy of corruption and perversion. We shall treat this question last because it is the encroachment which presents a character of the utmost gravity and which has assumed the character of the most extensive generality.



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Man is more attached to his physical integrity and to life than to his property. But in all high conceptions of life, man is even less attached to life than to that which makes for his dignity and quality, according to the great Latin maxim: "Et propter vitam vitandi perdere causas." On the other hand, if in the territories occupied by them, the Germans did not, in spite of the importance and extent of their crimes, plunder all the property and goods and if they did not kill all the people, there remains not a single man whose essential rights they did not change or abolish and whose condition as a human being they did not violate in some way. We can even say that in the entire world and as regards all people, even those to whom they reserved the privileges belonging to the superior race and even as regards themselves, their agents and accomplices, the Nazi leaders committed a major offense against the conscience which mankind has evolved today from his condition as a human being.

The execution of the enterprise was preceded by its plan. This is manifest in the entire Nazi doctrine and we shall content ourselves by recalling a few dominant traits. Humanity expresses itself, we say, in major statutes, everyone of which comprises a complex apparatus of various provisions. But these statutes are inspired in the laws of civilized countries by an essential conception of the nature of mankind. This conception is defined in two complementary ideas: The dignity of the human person considered in every person individually on one hand and on the other hand, the permanancy of the human being considered within the whole of humanity.

Every juridical organization of the human being in a state of civilization proceeds from this essential twofold conception of the individual, in each and in all, the individual and the universal. Without doubt, to Occidentals this conception usually appears as bound up with the Christian doctrine; but if it is exact that Christianity asserted and spread this conception, it would be a mistake to see in it only the mere teachings of one or even of certain religions. It is a general conception which comes quite naturally to one's mind. It was professed in ancient pre-Christian times and in more recent times the great Germanic philosopher Kant expressed it in one of his most forceful formulas "The human being must always be considered as an end and never as a means."



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The role, as we have already stated, of the followers of the Hitlerian faith was to protest against spontaneous affirmation of the genius of mankind and to claim breaking at this point the continuous progress of moral intelligence. The tribunal is already acquainted with the abundant literature of this sect. Without a doubt nobody expressed himself more clearly than the defendant Rosenberg when he declares in the "Myth of the XXth Century", page 539: "Peoples whose health is dependent on their blood do not know individualism as a criterion of values, any more than they recognize universalism. Individualism and universalism in the absolute sense and historically speaking are the metaphysics of decadence". Nazism professes, moreover, that "The distance between the lowest human being still worthy of this name and our higher races is greater than that between the lowest type of mankind and the best educated monkey". (Die Rüden Hitlers Reichsparteitag 1933, page 33) ... Thus it is not only a question of abolishing the truly divine conception which religion sets forth as regards man, but even to set aside all purely human conceptions and to substitute for it an animalistic conception.

As a consequence of such a doctrine, the upsetting of the human condition does not only appear to be a means to which one has recourse in the presence of temporary opportunities such as those arising from war, but also appears as an aim both necessary and desirable. The Nazis propose to classify mankind into 3 main categories. That of their adversaries or persons whom they consider inadaptable to their strange constructions: this category can be bullied in all sorts of manners and even destroyed. That of higher mankind which they claim is distinguishable by its blood or by some arbitrary means. That of inferior mankind, which does not merit destruction and whose vital power should be used in a regime of slavery for the well-being of the "overlords". The Nazi leaders proposed to apply this conception everywhere where they could do so: to territories more and more expansive; to populations becoming ever greater; and in addition demonstrated the frightful ambition of succeeding in

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imposing it on intelligent people, of convincing their victims and of demanding from them, in addition to so many sacrifices, an act of faith. The Nazi war is a war of fanatical religion in which one can exterminate infidels and equally well force them to conversion. It should further be noted that the Nazis aggravated the excesses of these horrible times, for in a religious war converted adversaries were received like brothers, whereas the Nazis never gave their pitiable victims the chance of saving themselves even by the worst recanting.

It is by virtue of these conceptions that the Germans undertook the germanization of occupied territories, and had without a doubt the intention of trying to germanize the whole world. This germanization can be distinguished from the ancient theories of pan-germanism inasfar as it is both a Nazification and an actual return to barbarism.

Racialism classifies occupied nations into two main categories; germanization means for some a national socialist assimilisation and for the others disappearance or slavery. For human beings classed as of higher races the more favoured condition assigned to them comprises the falling-in with the new concepts of the Germanic community. For human beings of the so called "inferior race" it was proposed either to abolish all rights whilst awaiting and preparing their physical classifying, or to assign them to servitude.

For both, racialism means acceptance of the Nazi myths.

This twofold program of absolute germanization was not carried out in totality nor in all occupied countries. The Germans had conceived it as a longthy piece of work which they intended to carry out gradually, by a series of successive measures. This progressive approach is always characteristic of the Nazi method. It fits in, apparently, both with the variety of obstacles encountered, the hypocritical desire of sparing public opinion, and with a horrid lust for experimenting and scientific ostentation.

When the countries were liberated, the state of the germanization varied a lot according to the different countries, and in each country according to such and such a category of the population. Sometimes the method was forced on to its extreme consequences; elsewhere one only discovers the appearance of preparatory arrangements.

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But it is easy to note everywhere the trend of the same evil, interrupted at different points in its development, but everywhere directed by the same inexorable movement.

As regards national status, the Germans proceeded on a pure and simple annexation basis in Luxembourg, in the Belgian cantons of Eupen and of Malmedy, and in the French departments of Alsace and of Lorraine. Here the criminal undertaking consisted in both the abolition of the sovereignty of the State, natural protector of its nationals, and the abolition for these nationals of the status they had as citizens of this State, a status recognized by domestic and international law.

The inhabitants of these territories lost thereby their original nationality, ceasing to be Luxembourgers, Belgians, or French. They did not acquire, however, full German nationality; they were admitted only gradually to this singular favor, on the further condition that they furnish certain justifications therefor.

The Germans sought to efface in them even the memory of their former country. In Alsace and in Moselle the French language was banned, names of places and of people were Germanized.

Now citizens or mere subjects were equally subject to the obligations relating to the Nazi regime; to forced labor naturally, and soon to military conscription. In case of resistance to these orders--unjust and abominable as they were, since it was a matter of arming the French against their allies and in reality against their own country--sanctions were brought to bear, not only against the parties concerned, but even against the members of their families, following the theses of Nazi law, which brushes aside the fundamental principles of the law against repression.

Persons who appeared recalcitrant to Nazification, or even those who seemed of little use to Nazi enterprises, became the victims of large-scale expulsions, driven from their homes in a few hours with the most scanty baggage, and despoiled of their property.

Yet this inhuman carrying away of entire populations, which will remain one of the horrors of our century, appears as favor-

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able treatment when compared to the deportations which were to fill the concentration camps, in particular the Struthof camp in Alsace.

At the same time that they oppressed the population by force and in contravention of all law, the Nazis undertook, according to their method, to convince the people of the excellence of their regime. The young people especially were to be educated in the spirit of National Socialism.

The Germans did not proceed to the annexation, properly speaking, of other areas than those we have named; it is beyond doubt, however, and confirmed by numerous indications, that they proposed to annex territories much more important by applying to them the same regime if the war had ended in victory.

But everywhere they prepared the abolition or the weakening of the national position by debarring or damaging the sovereighty of the state involved, and by forcing the destruction of patriotic feeling.

In all the occupied countries, whether or not there existed an apparent governmental authority, the Germans systematically disregarded the laws of occupation. They legislated, regulated, administered. Besides the territories actually annexed, the other occupied territories also found themselves in a state that could be defined as a state of pre-annexation.

This leads to a second aspect which is the attack on spiritual security. Everywhere, although with variations in time and in place, the Germans acted to abolish the public freedoms, notably freedom of meeting and freedom of the press; and they endeavored to trammel the essential freedoms of the spirit.

The German authorities subordinated to the strictest censorship, even in matters devoid of military character, a press many of whose representatives, moreover, were inspired by them. Manifold restrictions were imposed on the moving picture industry and commerce. Numerous works absolutely without political character were banned, even textbooks. Religious authorities themselves saw their clerical province invaded and words of truth could not be heard.

After having curtailed freedom of expression even beyond the degree that a state of war and of occupation could have justified, the Germans developed their National Socialist propaganda systematically through press, radio, film, meeting, book, poster.

All these efforts achieved so little result that one might attempt today to minimize their importance. Nevertheless, the propaganda conducted by means most contrary to the respect due human intelligence, and on behalf of a criminal doctrine, must go down in history as one of the shames of the National Socialist regime.

No less did the Germanization program compromise human rights in the other broad areas that we have defined: right of the family, right of professional and economic activity, juridical guarantees. These rights were attacked, these guarantees were curtailed.

The forced labor and the deportations infringed the rights of the family, as well as the rights of labor. The arbitrary arrests suppressed the most elementary legal guarantees. In addition, the Germans tried to impose their own methods on the administrative authorities of the occupied countries and sometimes unfortunately succeeded in doing so.

It is also known that racial discriminations were provoked against citizens of the occupied countries who were catalogued as Jews, measures particularly hateful, damaging to their personal rights, and to their human dignity.

All these criminal acts were committed counter to the rules of international law, and of the Hague Convention in particular, which limits the rights of armies occupying a territory.

The battle the Nazis waged against humanity completes the tragic and monstrous picture of the war criminality of Nazi Germany, which advanced under the banner of the abasement of man--a deliberate requirement of the National Socialist doctrine. This gives it its true character of a systematic attempt to return to barbarism.

Such are the crimes which National Socialist Germany committed while waging the war of aggression that she launched. The martyred peoples appeal to the justice of civilized nations and request your high Tribunal to condemn the National Socialist Reich in the person of its surviving chiefs.



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Let the accused not be astonished at the charges brought against them and let them not dispute at all this principle of retroactivity, the permanence of which was guaranteed, against their wishes, by democratic legislation. War crimes are defined by international law and by the national law of all modern civilizations. The accused knew that acts of violence against the persons and property and human rights of enemy nationals were crimes for which they would have to answer before international justice.

The governments of the United Nations have addressed many a warning to them since the beginning of the hostilities.

On 25 October 1941, Franklin ROOSEVELT, President of the United States of America, and Winston CHURCHILL, Prime Minister of Great Britain, announced that the war criminals would not escape just punishment. "The massacres of France", said Churchill, "are an example of what Hitler's Nazis are doing in many other countries under their yoke. The atrocities committed in Poland, Yugoslavia, Norway, Holland, Belgium, and particularly behind the German front in Russia, exceed anything that has been known since the darkest and most bestial ages of humanity. The punishment of these crimes should now be counted among the major goals of the war."

During autumn 1941, the representatives of the governments of the occupied countries met at London upon the initiative of the Polish and Czech governments. They worked out an inter-allied declaration which was signed the 13th of January 1942. I permit myself to remind the Tribunal of its terms.

"The undersigned, representing the Governments of Belgium, of Czechoslovakia, the National Committee of Free France, the Governments of Greece, of Luxembourg, of the Netherlands, of Poland and of Yugoslavia,

"Whereas Germany, from the beginning of the present conflict, which was provoked by her policy of aggression, set up in the occupied countries a regime of terror characterized, among other things, by imprisonment, mass deportations, massacres, and execution of hostages;

"Whereas these acts of violence are committed equally by the allies and associates of the Reich, and in certain countries by citizens collaborating with the occupying power;



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"Whereas international solidarity is necessary in order to prevent these deeds of violence from giving rise to acts of individual or collective vengeance, and finally in order to satisfy the spirit of justice in the civilized world;

"Recalling to mind that international law and, in particular, the Hague Convention signed in 1907, concerning the laws and customs of land war, do not permit belligerents to commit acts of violence against civilians in occupied countries, or to violate laws which are in force or to overthrow national institutions;

1) Affirming that acts of violence thus committed against civilian populations have nothing in common with the conceptions of an act of war or a political crime as this is understood by civilized nations,

2) They take note of the declarations made in this respect on 25 October 1941, by the President of the United States of America and the British Prime Minister,

3) They place among their chief war aims, the punishment by means of organized justice of those guilty of or responsible for these crimes, whether they ordered, or perpetrated, or shared in them,

4) They have decided to see to it in a spirit of international solidarity that: a) those guilty or responsible, whatever their responsibility, shall be sought out, brought to justice, and be judged. b) that the sentences pronounced shall be executed.

In faith of which, the undersigned, being duly authorized, to this effect, have signed this declaration".

The leaders of National Socialist Germany received other warnings.



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I refer to the speech of General de GAULLE of 13 January 1942; that of CHURCHILL on 8 September 1942, the note of Mr. Molotov, Commissar of the People for Foreign Affairs of the Soviet Union, of 14 October 1942 and the second inter-allied declaration of 17 December 1942. The latter was made simultaneously at London, Moscow and Washington after receipt of information according to which the German authorities were engaged in exterminating the Jewish minorities in Europe. In this declaration, the Governments of Belgium, Czechoslovakia, Greece, Luxemburg, the Netherlands, Norway, Poland, the United States of America, the United Kingdom, the Soviet Union, Jugoslavia, and the French National Committee which represented the permanence of France, solemnly reaffirmed their will to punish the war criminals who are responsible for this extermination.

The elements of a just repression are thus found to be joined together. The accused, at the time when they committed their crimes knew the will of the United Nations to bring about the punishment for them.

The warnings which were given to them show that definition was previous to repression.

The accused, moreover, could not be ignorant of the criminal nature of their activities. The warnings of these allied governments translated, in effect, in a political form, the fundamental principles of international and of national law which permit the punishment of war criminals to be established on positive precedents and rules.

The founders of international law had an inkling of the concept of war crime, particularly Grotius who elucidated the criminal character of needless acts of war. The Hague Conventions, after the lapse of several centuries, established the first norms imperative for the laws of war. They regulated the conduct of hostilities and occupation procedures; they formulated positive rules in order to limit recourse to force and to bring the necessities of war into agreement with the requirements of human conscience. War crime thus received the first definition under which it may be considered; it became a violation of laws and customs of war as codified by the Hague Convention.



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Came the war of 1914. Imperial Germany waged the first World War with a brutality perhaps less systematic and frenzied than that of the National Socialist Reich, but just as deliberate. The deportation of workers, looting of public and private property, the taking and killing of hostages, the demoralization of the occupied territories constituted, in 1914 as in 1939, the political methods of German warfare.

The Treaty of Versailles was based on the Hague Convention as to the organization of the repression of war crimes. Under the title "Sanctions", chapter VII of the Treaty of Versailles discusses criminal responsibility incurred in the launching and waging of the conflict which was then the Great War. Article 227 accused William of Hohenzollern, previously emperor of Germany, of a supreme offense against international morality and against the sacred character of treaties. Article 228 acknowledged the right of the Allied and Associated Powers to bring persons guilty of acts contrary to the laws and customs of war before military tribunals.

Article 229 provided that criminals whose acts were not of precise geographical location were to be referred to interallied jurisdiction. The provisions of the Treaty of Versailles were repeated in the conventions which were signed in 1919 and 1920 with the powers allied with Germany, in particular in the Treaty of Saint-Germain and in that of Neuilly. That is how the idea of war crime was affirmed in international law. The peace treaties of 1919 not only defined the concept of infringement; they formulated the term of its repression. The accused were aware of this, just as they were aware of the warnings of the governments of the United Nations. They no doubt hoped that the renewal of the circumstances of fact which hampered the repression of the criminals of 1914 would permit them to escape their just punishment. Their presence before this Tribunal is the symbol of the constant progress which international law is making in spite of all obstacles.

International law had given a still more precise definition of the term "war crime". This definition was formulated by the Commission which

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the preliminary peace conference appointed on 25 January 1919 to disentangle the various responsibilities incurred in the course of the war. The report of the Commission of Fifteen of 29 March 1919 constitutes the historical basis of articles 227 ff. of the Treaty of Versailles. The Commission of Fifteen based its investigation of penal responsibilities on an analysis of the crimes suitable to engage their attention. A material element enters into the juridical settlement of any infraction. Its definition is therefore the more precise as it includes an enumeration of the facts which it encompasses. That is why the Commission of Fifteen set up a list of war crimes. This list includes 32 infractions. These are particularly:

1) Murders, massacres, systematic terrorism.

2) Killing of Hostages.

3) Torture of civilians.

8) Burying of civilians in inhuman conditions.

9) Forced labor of civilians in connection with military operations of the enemy.

10) Usurpation of sovereignty during the occupation of occupied territories.

11) Forced conscription of soldiers among the inhabitants of the occupied territories.

12) Attempts to denationalize the inhabitants of occupied territories.

13) Looting

14) Confiscation of property.

17) Imposition of collective fines.

18) Willful devastation and destruction of property.

25) Violation of other rules concerning the Red Cross.

29) Ill-treatment of wounded and prisoners of war.

30) Use of prisoners of war for unauthorized work.

This list, which already includes the grievances against the accused enumerated in the indictment, is significant because the war crimes which it encompasses all present a composite character. They are crimes against both international law and national law. Some of these crimes constitute attacks on the fundamental liberties and the constitutional rights of peoples and of individuals; they consist of the violation of public guarantees which are

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recognized by the constitutional Charter of the Nations whose territories were occupied: violation of the principles of liberty equality, and fraternity which France proclaimed in 1789 and of which the civilized States guarantee the perpetuity. These war crimes are violations of public international law, since they express a systematic failure to recognize the respective rights of the occupying power and the occupied power; but they can equally be analyzed as violations of public national law, since they forcibly transform the constitutional institutions of the occupied territories and the jurdical statute of their inhabitants.

More numerous are crimes which constitute sttacks on the integrity of the physical person and of property.

They are connected with the making of rules of war and include violation of international law and customs.

But the international conventions, it should be remarked, determine the elements constituting an infraction more than they actually create that infraction itself. The latter existed before in all of national legislatures, it was to some extent a part of the juridical inheritance common to all nations; Governments agreed to affirm its international character and to define its contents. International penal law is thus superimposed on national law,which preserves its repressive basis because the war crime remains, in the last analysis, a crime of common law. National penal law gives the designation for this. All the acts referred to in article 6 of the Charter of 8 August 1945, all the facts encompassed by the third heading of the indictment of 18 October 1945 correspond to the infractions of common law provided for and punished by national penal legislation. The killing of prisoners of war; of hostages; and of inhabitants of occupied territories falls; in French law, under Articles 295 ff. of the Penal Code, which define murder and assassination. The mistreatment to which the indictment refers

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would come under the heading of wounds and voluntary blows which are defined by articles 309 ff. Deportation is analyzed, independently of the murders which accompany it as an arbitary illegal restraint,

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which is defined by articles 341 and 344. Pillage of public and private property and the imposition of collective fines are penalized by articles 221 ff. of the Military Code of Justice. Article 434 of the Penal Code punishes voluntary destruction, and the deportation of civilian workers is comparable with the forced conscription provided for by article 92. The oath of allegiance is equivalent to the obligation to a false oath article 366, and the germanization of occupied territories is applicable to in number of crimes, the most obvious of which is forced incorporation in the Wehrmacht in violation of article 92. The same equivalents can be found in all modern legislative systems and particularly in German law.

The crimes against persons and property of which the accused are guilty are provided for by all national laws. They present an international character because they were committed in several different countries; from this there arises a problem of jurisdiction which the Charter of 8 August 1945 has solved, as we have previously explained; but this leaves intact the rule of defining them.

A crime of common law, the war crime is nevertheless not an ordinary infraction; it has a peculiar intrinsic character - it is a crime committed on the occasion or under the pretext of war. It must be punished because, even in time of war, attacks on the integrity of the physical person and of property are crimes when they are not justified by the laws and customs of war. The soldier who on the battlefield kills an enemy combatant commits a crime, but this crime is justified by the law of war. International law therefore intervenes in the definition of a war crime, not in order to give it its essential qualification but in order to set its outer limits. In other words, any infraction committed on the occasion or under the pretext of hostilities is criminal if it is not justified by the laws and customs of war. International law applies the national theory of legitimate defense which is common to all codes of criminal law. The combatant is engaged in legitimate defense on the battlefield; his homicidal action is therefore covered by a justifying fact. Let the justifying fact disappear, and the infraction, whether ordinary crime or war crime, remains in its entirety! In order for the justifying fact to be

constituted, the criminal action must be necessary and proportional to the threat to which it responds. The defendant, against whom justice is demanded of you cannot plead such justification.

Neither can they escape their responsibility by arguing that they were not the physical authors of the crimes. The war crime involves distinct and complementary responsibilities; that of the physical author and that of the instigator. There is nothing heterodox in this conception. It is the faithful translation of the criminal theory of complicity through instructions. The responsibility of the accomplice, whether independent of or complementary to that of the principal author is incontestable. The accused bear the entire responsibility of the crimes which were committed on their instructions or under their control.

Finally these crimes cannot be justified by the pretext of an order from above given by Hitler to the defendants. The theory of the justifying fact of an order from above has, in national laws, definite limits; it does not cover the execution of orders whose illegality is manifest. German law, moreover, assigns only a limited role to the concept of justification by orders from above. Article 47 of the German Military Code of Justice of 1940, although maintaining in principle that a criminal order from a superior removes the responsibility of the agent, punishes the latter as an accomplice when he went beyond the orders received or when he acted with knowledge of the criminal character of the act ordered. Goebbels once made this juridical concept the theme of his propaganda. On 28 May 1944 he wrote in an article in the Voelkischer Beobachter, which was submitted to you by the American public prosecutor, an article intended to justify the assassination of allied pilots by the German population; "The pilots cannot validly claim that as soldiers they obeyed orders. No law of war provides that a soldier will remain unpunished for a heinous crime by referring to the orders of his superior, if their orders are in striking opposition to all human morals and to all international customs. [illegible] do not exoner[illegible]



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in the conduct of war."

Orders from above do not exonerate the agent of a manifest crime from responsibility. Any other solution would, moreover, be inacceptable, for it would testify to the impotence of all repressive policy.

All the more reason why orders from above cannot be the justifying fact for the crimes of the defendant. Sir Hartley Shawcross told you with eloquence that the accused cannot claim that the crime against the peace was the doing of Hitler alone and that they limited themselves to transmitting the general directives. It is with war crimes as with the will for aggression; they are the common work of the defendants; the defendants bear the joint responsibility for the criminal policy which resulted from the National Socialist doctrine.

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1) The responsibility for German war criminality, because it constituted a systematic policy, planned and prepared before the ppening of hostilities, and perpetrated without interruption from 1940 to 1945, rests with all the defendants, political or military leaders, high officials of National Socialist Germany, and leaders of the Nazi Party.

Nevertheless, certain ones among them appear more directly responsible for the acts taken as a whole, particularly those connected with the French charges, that is to say crimes, committed in the Western occupied territories, or against the Nationals of these countries. We shall cite:

The defendant Goering in his capacity as Director of the Four Year Plan, and President of the Cabinet of Ministers for Reich Defense;

the defendant Ribbentrop in his capacity of Foreign Affairs in charge of the administration of occupied countries;

the defendant Frick in his capacity as Director of the Central Office for occupied terrotories;

the defendant Funk in his capacity as Minister of Reich Economy;

the defendant Keitel, inasmuch as he had command over the occupation armies;

the defendant Jodl, associated in all the responsibilities of the preceding defendant;

the defendant Seyss-Inquart in his capacity as Reich's Commissar for the occupied Dutch territory from 13 May 1940 to the end of the hostilities.

We will examine more especially, among these defendants or among others, those responsible for each category of acts, it being understood that this enumeration is in no wise restrictive.

The defendant Sauckel bears the chief responsibility for forced labor in its various forms. As Plenipotentiary for labor, he carried out the intensive recruiting of workers by

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every possible means. He is in particular the signer of the decree of August 22,1942, which constitutes the charter for forced labor in all occupied countries. He worked in liaison with defendant Speer, chief of the Todt Organization; as general plenipotentiary for armament in the office of the Four Year Plan, as well as with the defendant Funk, Minister of Reich Economy, and with the defendant Goering, Chief of the Four Year Plan.

The defendant Goering participated directly in economic looting in the same capacity; he appears to have often sought and derived a personal profit from it. The defendant Ribbentrop in his capacity as Minister of Foreign Affairs was no stranger to these acts. The defendant Rosenberg, organizer and Chief of the "Einsatastab Rosenberg", is particularly guilty of the looting of works of art in the occupied countries.

The chief responsibility for the murders of hostages lies with the defendant Keitel, the drafter,notably of the general order of 16 September 1941, to his assistant, the defendant Jodl, to the defendant Goering, and who agreed to the order in question.

The defendant Kaltenbrunner, Himmler's direct associate, and chief of all the foreign police and security offices, is directly responsible for the monstrous devices to which the Gestapo had recourse in all occupied countries, devices which are only the continuation of the methods orginated in the Gestapo by its founder, the defendant Goering.

The defendant Kaltenbrunner is likewise directly responsible for the crimes committed in the deportation. Moreover, he visited these, as will be proved, in the case of the Mauthausen camp. The defendant Goering knew of and gave his approval to the medical experiments made on the prisoners. The defendant Sauckel forced prisoners by every possible means to work under conditions which were ofter inhuman for the German war production.

The defendant Keitel, and his assistant, the defendant Jodl, are responsible for treatment contrary to the laws of war

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inflicted upon war prisoners, for murders and killings to which they were subjected as well as, for handing over great numbers of them to the Gestapo. The defendant Goering shares their responsibility for the execution of Allied aviators and soldiers belonging to the commando groups. The defendant Sauckel directed the work of war prisoners for the German war production in violation of International Law.

The defendant Keitel and the defendant Kaltenbrunner both bear the chief responsibility for the terrorist actions carried out jointly by the German Army and the police forces in the various occupied countries, and notably in France, against the Resistance, as well as for the devastations and massacres carried out against the civilian population of several French Departments. The defendant Jodl shares in this responsibility, most particularly through his initial instruction, "Struggle against partisan bans" dated 6 May 1945 which provides for "Collective measures against the inhabitants of entire villages." These blows against mankind are the result of racial theories of which the defendant Hess, the defendant Rosenberg, the defendant Streicher are among the instigators, or propagandists. The defendant Hess put a notable thought in the formulation of the thesis developed in Mein Kampf.

The defendant Rosenberg, one of the principal theorists on racism, exercised the function of special delegation for the spiritual ideological formation of the Nazi Party. The defendant Streicher showed himself to be one of the most violent antisematic agitaters. In the execution of the pokicy of Germanization and Nazization, responsibility is shared between the Minister of Foreign Affairs, i.e. the defendant Ribbentrop, the general staff, i.e. the defendants Keitel and Jodl, the Central Office for all the occupied territories, i.e. the defendant Frick.

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2) The major National Socialist culprits had their orders carried out in the divers Nazi organizations, which we asked you to declare criminal, in order that each of their members may be then apprehended and punished.

The Reichcabinet, the Reich corps of Nazi Party, the general staff, and High Command of the German Armed Forces represent only a small number ofpersons whose guilt and punishment must inultimately result from the evidence since they participated personally and directly in the decisions, or their execution of them through some eminentperson in the political or militaty hierarchy, and without being able to ignore the criminal nature of them, and directors of the Nazi Party are unquestionably among those who most obviously participated in the criminal enterprise; and around the defendants Keitel and Jodl the military High Command directed the Army to execute hostages, to pillage, to destroy, and to murder in an unjustified fashion.

But perhaps it will seem to you that to doom to punishment hundreds of thousands of men who belonged to the SS, to SD, to the Gestapo, to the SA, awakens some objection. I should like to try since this case to do away with that objection by showing you the dreadful responsibilities of these men. Without the existence of these organizations, without the spirit which animated them, one would not succeed in understanding how so many atrocities could have been perpetrated. The systematic war of criminality could not have been carried out by Nazi Germany without these organizations, without the men who composed them. It is they who for Germany not only executed but willed this body of crime.

It may have seemed impossible to you that the monstrous barbarity of the National Socialist Doctrine could have been imposed upon the German people, the heir, as we are, of the highest values of civilization. The education by the Nazi Party of the young men who formed the SS, the SD, and the Gestapo, expands the empire of Nazism over all Germany, the incarnated National Socialism, and permitting it to accomplish, and thanks to the

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guilty passiveness of the whole German population a part of his purpose. This youth, those who carried out the tenets of the regime were formed in a vertable doctrine or immoralism, results from the notion of the world which served as inspiration for the regime. The myth of race in the years of these disciples of Nazism removed from criminal war its criminal character.

If it is proved that a superior race is to annihilate races and peoples that are considered inferior and decadent, inequitable of living a life as it should be lived, before what means of extermination will they recoil? The ethics of immorality, the result of the most authentic Nietscheism, which considers that the destruction of all conventional ethics is the supreme attitude of man. The crime against race is punished without pity. The crime on behalf of race is exalted with ut limit. The regime creates truly a lo ic of crime which opposed its own laws, and which has no connection whatsoever with what we consider ethical. With such a point of view, all powers could be justified and authorized. So many acts which appear uncomprehensible to us, so greatly do they clash with our customary notions were explained, were formulated in advance in the name of the racial community.

Add that these atrocities, and these cruelties were perpetrated within the rigid framework created by the espirit de corps by the soldierly solidarity which bound individual and insured through the regimentcy of the crime an unlimited theme of action, the individual who committed them would not only cover by the regime itself, but spurred on by the discipline and the camaraderie of these established c rps of Nazi criminality.

German youth was invited by these organizations to live an extraordinary adventure. By the arty and its massive grip, dispensing mercy to itself with the unlimited power of Nazi youth were asked to carry out on the hi hest echelon of grandiose dreams the National Socialist Pan-Germanism.

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The Party exercised a high selectivity among its youth, and neglected no simulation. It solicited from its youth the desire to distinguish itself to accomplish exploits beyond the common order and beyond nature. The youth Hitlerien, the Gestapo of the SS that knew that his acts no matter how cruel or inhumane they might be, would always be judged by the regime in the name of the racial community of its needs and of its triumphs. The Nazi Party, thanks to the youngmen of the SS, . of the SD, and of the Gestapo had thus become capable on a criminal plane what no where nor any people would have been able to commit. The members of these organizations became voluntarily the authors of this inequitable mass of crimes of their kind, executed frequently with the disconcerting synacism, and with a refined sadism, not only in the concentration camps of Germany, but also in the divers occupied countries, and particularly in those of Western Europe.

The crimes are monstrous. The crimes are theirs, and their responsibilities is established. There is no possible doubt.

But nevertheless all along these serene sessions of this trial, extraordinary in the history of the world, before the exceptional nature, on the justice of which your high Tribunal is asked to render for the indicated nations, and the German people, and for the whole humanity, a few objections have arisen in our minds.

It is our duty to explore all the aspects of this trial, even if it is still only unconscious within us, for soon a pseudo patriotic propaganda may arise in Germany, and even may echo in some of our countries.

Who can say: "I have a clean conscious, I am without fault? To have two weights and two measures are both abhored by God." This text from the scripture (Proverbs 20, 9 to 10). Has that arisen here or there; it will serve tomorrow as a theme of propaganda, but above all, it is profoundly written in our soul by raising us in the name of our mortal peoples as accusers of Nazi Germany. We have never for a moment held it in check as an unwanted appeal.

Yes, no nation is without reproach in its history, just as no individual is faultless in his life. Yes, every war in itself generates iniquitous ills, and entails almost necessarily individual and collective

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crimes, because it easily unleashes in man the evil passions which always slumber there.

But viewing the Nazi German culprits, we can examine our conscience fearlessly; we find no common measure between them and ourselves.

If this criminality was accidental; if Germany had been forced into war; if crimes had been committed only in the excitement of combat, we might question ourselves on the text of the Scriptures. But the war was prepared and deliberated upon long in advance, and up to the very last day it would have been easy to avoid it without sacrificing any of the legitimate interests of the German people. And the atrocities were perpetrated during the war, not under the influence of a mad passion, or of a warlike anger, or of an avenging resentment, but as a result of cold calculation, of perfectly conscious methods, of a pre-existing doctrine.

The truly diabolical enterprise of Hitler, and of his companions, was to assemble in a body of the dogmas around the concept of race, all the instincts of barbarism, repressed by centuries of civilization, but always present within the depths of men, all the negations of the traditional values of humanity, without which nations, as well as individuals question their conscience in the troubled hours of their evolution and of their life; to construct and to propagate a doctrine which organizes, regulates, and aspires to command crime.

The diabolical enterprise of Hitler, and of his companions, was also to appeal to the forces of evil in order to establish his domination over the German people, and subsequently the domination of Germany over Europe, and perhaps over the world. They planned to incorporate organized criminality into a system of government, into a system of international relation, and into a system of war conduct, by unleashing in the whole nation the most savage passions.

Nationalism, and the service of their people and of their country, will perhaps be their explanation; far from constituting an excuse, if any excuse were possible in view of the enormity of their crime, these determining causes would make it still greater. They have profaned the sacred concept of country linking it to a willed return to barbarism.

In its name they obtained half by force, half by persuasion the adhesion of a whole country, formerly among the greatest in the order of spiritual value, and have lowered it to the lowest level. The moral confusion, the economic difficulties, the obsession of the defeat of 1918, and of loss might, the Pan-Germanic tradition are the basis of th empire of Hitler and of his companions over the dis-oriented people; to abandon oneself to force, to renounce moral concern, to satisfy a love of col ectivity, to revel in lack of measure are the natural temptations strongly emplanted in the German, which the Nazi leaders exploited with cynicism. The intoxication of success, the madness of greatness completed the picture, and put practically all Germans, some without doubt unconsciously, in the service of the National Socialist Doctrine by associating them with the diabolical enterprise of their Führer and his companions.

Opposing this enterprise arose men of various countries and different societies, but all animated with the common bond of their human lot, France and Great Britain entered the war only to remain faithful to their word. The peoples of the occupied countries, tortured in their flesh, and in their souls, never renounced their liberty, nor their cultural values, and it was magnificent epicof clandestine opposition and of Resistance which through a splendid heroism, testifies to the spontaneous refusalof the populations to accept the N. [illegible]s. Millions and millions of men of the Soviet Union fell to defend not only the soil and independence of their country, but also their humanitarian universalism. The millions of British and American soldiers, who landed on our unhappy continent carried in their hearts the ideal of freeing from Nazi oppression, both the occupied countries, and the peoples who willingly or by force became the satellites of the Axis and of the German people itself.

These partisans and these soldiers separately and collectively were with or without uniforms, soldiers of great hope which throughout centuries has fed on popular suffering, the great hope of a better future for mankind.



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Sometimes this great hope expresses itself with difficulty or loses its way, or tries to deceive itself or knows the dread return of barbarism, but it persists always, and finally constitutes the powerful lever which brings about the progress of humanity. These aspirations always reborn, these concerns constantly awakened, this anguish unceasingly present, this perpetual combat against evil, form in a permanent fashion the sublime grandeur of man. National Socialism only yesterday emperiled all of this.

After that gigantic struggle where two ideologies, two conceptions of life were at grips, in the name of the people whom we represent here, and in the name of the great human hope for which they have so greatly suffered, so greatly fought, we can without fear and with a clean conscience arise as accusers of the leaders of Nazi Germany.

As Mr. Justice Jackson so eloquently at the opening of this trial: "Civilization could not survive if these crimes were to be committed again." And he added: "The true plaintiff in this court is civilization."

Civilization requires from you after this unleashing of barbarism, a verdict which will also be a sort of supreme warning at the hour when humanity appears still at times to enter the path of the organization of peace only with apprehension and hesitation.

If we wish that on the morrow of the cataclysm of war, the sufferings of martyred countries, the sacrifices of victorious nations and also the expiation of guilty people, will engender a better humanity, justice must strike those guilty of the enterprise of barbarism from which we have just escaped. The reign of Justice is the most exact expression of the great human hope. Your decision can mark a decisive stage in its difficult pursuit.

Undoubtedly even today, this justice and this punishment have become possible only because as a first condition free peoples emerged victorious from the conflict. There is a relationship in the facts between the force of the victors and the guilt of the vanquished leaders who appear before your high Tribunal.

But this relationship signifies nothing except that this evidence of the wisdom of nations that justice in order to impose itself effectively and constantly upon individuals and upon nations must have force at its disposal.

The common will to put force in the service of justice animates our nations and commands all our civilization.

This resolution is brilliantly strengthed today in a judicial case where the facts are examined scrupously under all their aspects. The penal nature of the offense rigorously established, the competency of the tribunal incontestable, the rights of the defense intact, total publicity insured.

Your decision intervening under these conditions can serve as a foundation for the moral uplift of the German people, first stage in its integration into the community of free countries. Without your decision, history might incur



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the risk of repeating itself, crime would become epic, and the National Socialist enterprise a last Wagnerian tragedy; and new Pan-Germanists would soon say to the Germans: "Hitler and his companions were wrong because they finally failed, but we must begin again some day on other foundations the extraordinary adventure of Germanism."

After your decision, if we know how to enlighten this people, and watch over their first steps on the road to liberty, National Socialism will be inscribed permanently in their history, as the crime of crimes which could only lead it to material and moral perdition, as the doctrine which they should forever avoid with horror and scorn in order to remain faithful to the great norms of communal civilization.

The eminent international jurist and noble European, Politis in his posthumus book entitled "International Ethics" reminds us that, as all ethical rules, those which should rule international relations will never be definitely established unless all peoples succeed in convincing themselves once and for all that there is greater profit to be gained through their observation than through their transgression.

That is why your judgment can contribute to enlighten the German people and all peoples.

Your decision must be inscribed as a decisive act in the history of International Law in order to prepare the establishment of a true international society excluding recourse to war and putting force permanently in the service of the justice of nations; it will be one of the foundations of this peaceful new order to which nations aspire on the morrow of this frightful torment. The need for justice of the martyred peoples will be satisfied and their sufferings will not have been useless for the progress of mankind.



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# INTRODUCTORY STATEMENT

# OF
# THE FRENCH PROSECUTION

Presented by M. Francois de MENTHON

Delegate of the

PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC

to the PROSECUTION at the

INTERNATIONAL MILITARY TRIBUNAL

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1314 RL.

1. The conscience of the peoples who only yesterday were enslaved and tortured both in soul and body calls upon you to judge and to condemn the most monstrous attempt at domination and barbarism of all time, both in the persons of some of th se who bear the chief responsibility and in the groups and associations which were the essential instruments of their crimes.

France, twice in thirty years invaded in the course of wars both of which were launched by German imperialism, bore almost alone, in May and June 1940, the weight of armaments accumulated by Nazi Germany over a period of years in a spirit of agression. Although temporarily crushed by superiority in numbers, material and preparation, my country never gave up the battle for freedom and was at no time absent from the field. The engagements undertaken and the will for national independence would have sufficed to assure France's support of General de GAULLE in the camp of the democratic nations; but if our fight for freedom slowly took the shape of a popular uprising, at the call of the men of the Resistance belonging to all social classes, to all creeds and to all political parties, it was because, while our soil and our souls were crushed by the Nazi invader, our people refused not only to submit to wretchedness and slavery, but even more, because they refused to accept the Hitlerian dogmas which are in absolute contradiction to their traditions, their aspirations and their human calling,

France who was sytematically plundered and ruined, France, so many of whose sons were tortured and murdered in the jails of the Gestapo or in their concentration camps, France who was subjected to the still more horrible grip of demoralization and return to barbarism diabolically imposed by Nazi Germany, asks you, above all in the name of the heroic martyrs of the Resistance, who are among the greatest heroes of our national legend, that justice be done.

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France, who so often in history, has been the spokesman and the champion of human liberty, of human values, of human progress, through my voice today also becomes the interpreter of the martyred peoples of western Europe, Norway, Denmark, the Netherlands, Belgium, Luxemburg, peoples more than others devoted to peace, peoples who are among the noblest of humanity by their aspirations and their worship of the values of civilization, peoples who have shared our sufferings and have refused, like us, to give up liberty and to sacrifice their souls before the assault of Nazi barbarism. France here becomes their interpreter to demand that justice be done.

2. The tortured peoples' craving for justice isthe basic foundation of France's call to your High Tribunal. It is not the only one, nor perhaps the most important one. More than toward the past, our eyes are turned toward the future.

We believe that there can be no lasting peace nor any certain progress for humanity which still today is torn asunder, suffering and anguished, except through the cooperation of all peoples and through the progressive establishment of a real international society.

Technical prpcedures and diplomatic arrangements will not suffice. There can be no well balanced and enduring nation without a common consent in the essential rules of social living, without a general standard of behavior before the claims of sonscience, without the adherence of all zitizens to identical concepts of good and of evil; there is no domestic law which in defining and punishing criminal violations is not founded on criteria of a moral order which are accpeted by all--in a word, without a common morality. There can be no society of nations tomorrow without an international morality, without a certain community of spiritual civilization, without an identical hierarchy of values; international law will be called upon to recognize and guarantee the punsihment of the gravest violations of the universally accepted moral laws. This morality and this international criminal law, indispensable for the final establishment of peaceful

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cooperation and of progress of lastin foundations, are inconceivable to us today, offer the experience of past centuries and more especially of these last years, after the incredible and awesome sacrifices and the sufferings of men of all races and of all nationalities except as built on the respect of the human person of every human person whosoever he may be, as well as on the limitation of the sovereignty of states.

But in order that we may have the hope of founding an international society through the free cooperation of all peoples, on thismorality and on this international law, it is necessary that after having premeditated, prepared and launched a war of aggression which has caused the death of millions of men and the ruin of a great number of nations, after having thereupon piled up the most odious crimes in the course of the war years, Nazi Germany shall be declared guilty and her rulers and those chiefly responsible punshied as such. Without this sentence and without this punishment the nations would have no faith in justice. When you have declared that crime is always crime, whether committed by a national entity against other nations or by one individual against another, you will thereby have affirmed that there is only one morality, which applies to international relations as well as to individual relationships, and that on this morality are built prescriptions of law recognized by the international community, you will then have truly begun to establish an international justice.

This work of justice is equally indispensable for the future of the German people. These people have been for many years intoxicated by Nazism; certain of their eternal and deep seated aspirations, under this regime, have found a monstrous expression; their entire responsibility is involved, not only by their general acceptance but by the effective participation of a great number of them in the crimes committed. Their re-education is indispensable. This represents a difficult enterprise and one of long duration. The efforts which the free peoples will have to make

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in order to reintegrate Germany in the international community cannot succeed in the end if this re-education is not carried our effectively. The initial condemnation of Nazi Germany by your High Tribunal will be a first lesson for these peoples and will constitute the best starting point for the work of the revision of values and of re-education which must be its great concern during the coming years.

This is why France sees fit to ask the Tribunal to qualify juridically as crimes both the war of aggression itself and those acts in violation of the morality and of the laws of all civilized countries which have been committed by Germany in the conduct of the war, to impose the supreme penalty on those who are chiefly responsible, and to declare criminal the members of the various groups and organizations which were the principal perpetrators of the crimes of Nazi Germany.

3. Your High Tribunal, established by the four nations, signatory to the agreement of 8 August 1945, acting in the interests of all the United Nations, is qualified to mete out to Nazi Germany the justice of the free peoples, the justice of liberated humanity.

The establishment by our four governments of a Tribunal competent to judge the crimes committed by those principally responsible in Nazi Germany, is based solidly on the principles and usage of International law. As an eminent British jurist (1) has recently reminded us: the practice and the doctrine of International law have always given to belligerent states the right to punish enemy war criminals who fall into their power. It is an incontestable rule of international law which no author has ever contested. It is not a new doctrine. It was born with the birth of International Law. Francisco de VITTORIA and GROTIUS laids its foundations. The German authors of the 17th and 18th century developed the doctrine.

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(1) Lauterpacht, The Law of nations and the punishment of War Crimes (The British Year Book of International Law 1944).

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Thus Johann Jacob MOSER, a positivistic writer of the 18th century said: "Enemy soldiers who act in violation of International Law, should they fall into the hands of their adversaries, are not to be treated as prisoners of war. They can suffer the same fate as thieves and murderers". The prosecutions which the United States, Great Britian, The Union of Soviet Socialist Republics and France are today carrying out against the men and the organizations appearing before your high Tribunal under the indictment drawn up in Berlin on October 18, 1945, therefore have an unimpeacheable juridical foundation: The right universally recognized by international doctrine of bringing War Criminals before a repressive jurisdiction.

This right is strenghtened by legal considerations that are perhaps even more irrefutable.

The principle of the territorial application of penal laws gives to every State the right to punish crimes committed on its territory. The application of the territorial principle covers the violations of international law in territory subject to military occupation; these violations are the chief source of war crimes. But the crimes committed by the defendants were not directed against any given state, in any given occupied territory. The national-socialist conspirators, against whom we ask that justice be done, directed the policy of the 3rd Reich.

All the states which were occupied and temporarily enslaved by their armed forces, have been equally victims both of the illicit war which they launched and of the methods used by them in the conduct of this war.

There is therefore not a single state which could legitimately claim the privilege of trying these criminals. Only an International Tribunal, emanating from the combined United Nations, which were yesterday at war with Germany, can rightly claim this privilege. This is why the declaration as to enemy atrocities made at the end of the Moscow conference in October 1943, had provided that the leaders of Nazi-Germany would, after the joint victory of the Allies, be brought before an international jurisdiction. There is, therefore, nothing new from a juridical point of view in the principle of justice which you are called upon to render. Far from being merely a statement of power from the side of the victors, your competence is founded on the recognition by international law of the territorial jurisdiction of sovereign States.

The transfer by these States of their juridical power to an international court constitutes a notable progress in the setting up of an interstate repressive

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procedure, it does not constitute any innovation in the legal foundation of the justice which you are called upon to render.

The penal qualification of the facts may seem more open to juridical objections. This horrible accumulation and maze of crimes against humanity both include and go beyond the two more precise juridical notions of crimes against peace and War Crimes. But I think - and I will revert later separately to crimes against peace and War Crimes - that this body of crimes against humanity constitutes in the last analysis, nothing less than the perpetration for political ends and in a systematic manner of common law crimes such as theft, looting, ill treatment, enslavement, murders and assassinations crimes that are provided for and punishable under the penal laws of all civilized States.

No general objection of a juridical nature, therefore, appears to hamper your task of justice.

Moreover, the Nazi accused would have no ground to argue an alleged lack of written texts to justify the penal qualification that you will apply to their crimes.

The juridical doctrine of ... had not the juridical doctrine of National-Socialism admitted that in domestic criminal law even the judge can and must supplement the law. The written law no longer constituted the Magna Carta of the delinquent. The judge could punish when, in the absence of a provision for punishment, the National Socialist sense of justice was gravely offended.

How could the judge of the Nazi regime supplement the law?

In his search for a semi-legal solution he acted in the manner of a legislator. Proceeding from the firm basis of the National-Socialist programme, he sought the rule which he would have proclaimed had he been a legislator. The defendant FRANCK, in his speech at the Juristentag in 1936 (1) declared: "Say to yourself at each decision you have to make, how would the Fuehrer decide in my place? At each decision which you must make, ask yourself: Is this decision in accordance with the National-Socialist conscience of the German people? Thus you will have a firm basis of conscience which will also bear for all time, in your own sphere of decisions, the authority of the 3rd Reich, passed on the unity of the popular National*Socialism whole and on the recognition of the will of the Fuehrer Adolf Hitler".

To those who tomorrow will render justice in the name of human conscience, the accused FRANCK and his accomplices would be illadvised to protest a lack of

(1) Der Deutsches Recht, 1936 p. 217

written texts with appropriate sanctions, especially as, in addition to various international conventions, these texts, though they be not codified in an inter-state penal code, exist in the penal code of every civilized country.

1418 II.

Judge Jackson has given you the details of the various phases and aspects of the National-Socialist plot, its planning and its development, from the first days of the conspiracy of Hitler and his companions rise to power, until the unleashing of unnumerable crimes in a Europe almost entirely at their mercy.

Sir HARTLEY SHAWCROSS has enumerated the various breaches of treaties, of agreements, of promises which were the prelude to the many wars of aggression of which Germany was guilty.

I propose to-day to prove to you that all this organised and vast criminality springs from what I may be allowed to call a crime against the spirit, I mean a doctrine which, denying all spiritual, rational and moral values by which the nations have tried, for thousands of years, to improve human conditions, aims to plunge humanity back into barbarism, no longer the natural and spontaneous barbarism of primitive nations, but into a diabolical barbarism, conscious of itself and utilizing for its ends all material means put at the disposal of mankind by contemporary science. This sin against the spirit, this is the original sin of National-Socialism from which all crimes spring.

I) This monstrous doctrine is that of racism:

The German race, composed in theory of Aryans, would be a fundamental and natural concept. Germans as individuals do not exist and cannot justify their existence, except in so far as they belong to the race or Volkstum, to the popular mass which represents and amalgamates all Germans. Race is the matrix of the German people; proceeding therefrom this people lives and develops as an organism. The German may consider himself only as a healthy and vigorous member of this body, fulfilling within the collectivity a definite technical function; his activity and his usefulness are the exact gauge and justification of his liberty. This national body must be "moulded" to prepare it for a permanent struggle.

The ideas and the bodily symbols of racism are an integral part of its political system; this is what is called authoritative or dictatorial



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biology.

The expression "blood" which appears so often in the writings of the Nazi theorists denotes his stream of real life, of red sap which flows through the circulatory system of every race and of all genuine culture as it flows through the human body. To be Aryan is to feel this current passing through oneself, this current which galvanises and vivifies the whole nation. Blood is this region of spontaneous and unconscious life which reveals to each individual the tendencies of the race. The intellectual life must never, in extolling itself, separate us from this elemental basis of the sacred community. Let the individual go into himself and he will receive by direct revelation "the commandments of the blood". Dreams, rites and myths can lead to this revelation. In other words the modern German can and must hear in himself the call of the old Germany and find again its purity and its youthful primitiveness.

The body and soul unity (Leibseele Einheit) of the individual must not be disputed. One reads in the "Nationalsozialistische Monatsheft" of September 1938: "It is said that the body belongs to the State and the soul to the Church and to God. It is not so. The whole of the individual, body and soul, belongs to the Germanic nation and to the Germanic State". National-Socialism affirms indeed that the moral conscience is the result of ortho-genetic evolution, the consequence of the most simple physiological functions which characterise the individuality of the body. Therefore, the moral conscience is also subject to heredity and consequently subject to the postulate and to the demands of the race.

True this pseudo-religion does not repudiate the use of reason and of technical activity, but subordinates them rigorously, brings them infallibly to the racial myth.

The individual has no value in himself and is important only as an element of the race. This affirmation is logical if one admits that not only physical and psychological characteristics but also opinions and tendencies are bound, not to the individual but to the nation. Anyone whose opinions differ from the official doctrine is asocial or unhealthy. He is unhealthy because in the Nazi doctrine the nation is equivalent to the race. Now, the

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characteristics of the race are fixed. An exception in the formation from the spiritual or moral point of view constitutes a malformation in the same way as does a club foot or a hare lip.

Totalitarian doctrine which reduces the individual to non-existence save by the race and for the race, without freedom of action or any definite aim. Totalitarian doctrine which excludes every other concept, every other aspiration or requirement save those connected with the race, totalitarian doctrine which eliminates from the individual every other thought save that of the interests of the race.

National-Socialism ends in the absorption of the personality of the citizen into that of the state and in the denial of any intrinsic value of the human person. We

We are brought back, as can be seen, to the most primitive ideas of the savage tribe. All the values of civilization accumulated in the course of centuries are rejected, all traditional ideas of morality, justice and law give way to the primacy of race, its instincts, its needs and interests. The individual, his liberty, his rights and aspirations, no longer have any real existence of their own.

In this conception of race it is easy to realize the gulf that separates members of the German community from other men. The diversity of the races becomes irreducible, and irreducible, too, the hierarchy which sets apart the superior and the inferior races. The Hitler regime has created a veritable chasm between the German nation, the sole keeper of the racial treasure, and other nations.

Between the Germanic Community and the degenerate population of an inferior human variety there is no longer any common measure. Human brotherhood is rejected, even more than all the other traditional moral values.

2) How can one explain that Germany, fertilized through the centuries by classic antiquity and christainity, by the ideals of liberty, equality and social justice, by the common heritage of Western humanism to which she had brought such noble and precious contributions, could have come to this astonishing return to primitive barbarism.

In order to understand it and to try to eradicate from the Germany of tomorrow the evil by which our entire civilization came so near to perishing, it must be recalled that National Socialism has deep and remote origins.

The mysticism of racial community was born of the spititual and moral crisis which Germany underwent in the 19th Century and which abruptly broke out again in its economic and social structure through a particularly rapid industrialization. National Socialism is in reality one of the peaks of the moral and spiritual crisis of modern humanity, convulsed by industrialization and technical progress. Germany experienced this metamorphosis of economic and social life not only with an extraordinary brutality but at a time when she did not yet possess the political equilibrium and the cultural unity which the other countries of western Europe had achieved.

While the inner and spiritual life was weakening, a cruel uncertainity dominated the spirits, an uncertainity admirable defined by the term "ratlosigkeit" which cannot be translated into French but which corresponds to our popular expression, "one no longer knows in what saint to believe". This is the spiritual cruelty of the 19th century which so many Germans have described with a tragic evocative power. A gaping void opens before the human soul disorianted by the search for new values.



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The natural sciences and the sciences of the mind give birth to absolute relativism; to a deep scepticism regarding the lasting quality of values on which western humanism has been nurtured for centuries. A vulgar Darwinism prevails, bewilders and befuddles the brain. The Germans cease to see in human groups and races anything but nuclei closed in upon themselves, in perpetual struggle with one another.

It is in the name of decadence that the German spirit condemns humanism. It sees in the values of humanism and in the elements that derive from it only "maladies", which it attributes to an excess of intellectualism and abstraction of everything that restrains men's passions by subjecting them to common norms. From this point on classic antiquity is no longer considered in its aspect of ordered reason or of radiant beauty. It is seen only in the light of civilization vitally enamoured of struggles and rivalries, linked especially to Germany through their would-be German origins.

Sacerdotal Judaism and Christainity in all its forms are condemned as religions of honor and brotherhood, calculated to kill the virtues of brutal force in man.

A cry is raised against the democratic idealism of the modern era, and then against all the internationals.

Over a people in this state of spiritual crisis and of negations of traditional values the culminating philosophy of Nietzsche was to exercise a dominant influence. In taking the will to power as a point of departure, Nietzsche preached, not inhumanity but superhumanity. If there is no final cause in the universe, man--whose body is matter which is at once feeling and thinking--many mould the world to his desire, choosing as his guide a militant biology. If the supreme end of humanity is a feeling of victorious fullness which is both material and spiritual, all that remains is to insure the selection of physical specimens, who become the new aristocracy of masters.



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For Nietzsche the industrial evolution necessarily entails the rule of the masses. The automatism and the shaping of the working multitudes. The state endures only by virtue of an elite of vigorous personalities who, by the methods so admirably defined by Machiavelle, which alome accord with the laws of life, will lead men by force and by ruse simultaneously, for men are and remain wicked and perverse.

We see the modern barbarian arise. Superior by his intelligence and his willful energy, freed of all conventional ethics he can enforce upon the masses obediance and loyalty by making them believe in the dignity and beauty of labor and by providing them with that mediocre well-being with which they are so easily content. A one and same force will, therefore, be manifest in the leaders, whose elementary passions by the harmony between their elementary passions and the lucidity of their organizing reason, and in the masses, whose dark or violent instincts will be balanced by a reasoned activity imposes with implacable discipline.

One cannot, doubtlessly, identify the late philosphy of Nietzsche with the brutal simplicity of National Socialism. Nevertheless, National-Socialism was wont to glorify Nietzsche as one of its ancestors. And justly so, for he was the first to formulate in a coherent manner criticism of the traditional values of humanism; and also, because his conception of the government of the masses by masters knowing no restraint, is a preview of the Nazi regime, Besides, Nietzsche believed in the sovereign race and attrubuted primacy to Germany, whom he considered endowed with a youthful soul and unquenchable resources.

The myth of racial community which had arisen from the depths of the German soul , unbalanced by the moral and spiritual crises endured by modern humanity, joined up with the traditional thesis of Pangermanism.

Fichte's "Speeches to the German Nation" had already, by



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exalting Germanity, clearly revealed one of the main keys ideas of Pangermanism - namely, that Germany visualizes and organizes the world as it should be visualized and organized.

The apology of war is also no novelty. It dates back to Fichte and Hegel, who had stated that by classifying peoples, war alone established justice among nations. On page 433 of his "Grundlinien der Philosophie des Rechtes", Hegel writes: "The moral health of nations is maintained thanks to war, just as the passing breeze saves the sea from stagnation".



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The living-space theory appears right at the beginning of the 19th century. It is a well-known geographical and historical demonstration which such people as Ratzel, Arthur Dix and Lamprecht will take up later on, comparing conflicts between peoples to a savage fight between conceptions and realizations of space and declaring that all history is moving towards German hegemony.

State totalitarianism also has deep roots in Germany. The absorption of individuals by the State was hoped for by Hegel, who wrote, "Individuals disappear in the presence of the universal substance (that is the people or state idea) and this substance itself shapes the individuals who are demanded by the ends in view." (Reason in History, page 32)

Therefore, National Socialism appears in no manner in present-day Germany, either as a spontaneous formation which might be due to the consequence of defeat in 1918, nor is it the mere invention of a group of men determined upon seizing power. National Socialism is the ultimate result of a long evolution of doctrines; the exploitation by a group of men of one of the most profound and most tragic aspects of the German soul. But the crime committed by Hitler and his companions will be precisely that of unleashing and exploiting to its extreme limit the latent force of barbarity, which existed before him in the German people.

3. The dictatorial regime instituted by Hitler and his companions carries with it for all Germans the "soldier-life", that is to say, a kind and a system of life entirely different from those which obtain in the bourgeois West and the proletarian East. It amounted to a permanent and complete mobilization of individual and collective energies. This integral militarization presupposed complete uniformity of thoughts and actions. It is a militarization which conforms to the Prussian tradition of discipline.

Propaganda instils into the masses faith, drive and a thirst for the greatness of the community. Those consenting masses find an artificial derivative for their moral anguish and their material cares in theories of race and in a mystical exaltation held in common. Souls which yesterday were wounded and rent asunder once more find themselves united in a common mold.

The Nazi educational system molds new generations which show no trace of traditional moral teachings, those being replaced by the cult of race



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and of strength.

The race-myth tends to become a real national religion. Many writers, substituting themselves to the duality of religious confessions, dream of dogmas of German conception, which would amount to being the religion of the German race, as a race.

In the midst of the 20th century Germany goes back, of her own will, beyond Christianity and civilization to the primitive barbarity of ancient Germany. She makes a deliberate break with all universal conceptions of modern nations. The National Socialist doctrine, which raises inhumanity to the level of a principle, constitutes, in fact, a doctrine of disintegration of modern society.

This doctrine necessarily brought Germany to a war of aggression and to the systematic use of criminality in the waging of war.

The absolute primacy of the German race, the negation of any international law whatsoever, the cult of strength, the exacerbation of community mysticism, made Germany consider recourse to war, in the interests of the German race, logical and justified.

This race would have the incontestable right to grow at the expense of nations considered decadent. Germany is about to resume the great invasions of the barbarians. Moreover, most naturally and logically, she will wage her war in barbarous fashion, not only because National Socialist ethics are indifferent to the choice of means, but also because war must be total in its means and in its ends.

Whether we consider a crime against peace or war crimes, we are therefore not faced by an accidental or occasional criminality which events could explain without justifying it. We are, in fact, faced by systematic criminality, which derives directly and of necessity from a monstrous doctrine put into practice with deliberate intent by the masters of Nazi Germany.

III.

1. From National Socialist doctrines there arises directly, the immediately pursued preparation of crimes against peace. As early as February, 1920, in the first program of the National Socialist Party, Adolf Hitler had already outlined the future basis of German foreign policy. But it was in 1924 in his Landsberg prison, while writing "Mein Kampf", that he gave a fuller development to his views.

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According to "Mein Kampf" the foreign policy of the Reich must have as its first objective to give back to Germany her "independence and her effective sovereignty" which is clearly an allusion to the articles of the Treaty of Versaille, referring to disarmament and the demilitarization of the Rhineland. It would then endeavor to reconquer the territories "lost" in 1919, and fifteen years before the outbreak of the Second World War, the question of Alsace and Loraine is clearly raised. It would also have to seek to extend German territories in Europe, the frontiers of 1914 being "insufficient" and it would be indispensable to extend them by including "all Germans" in the Reich, beginning with the Germans of Austria.

After having reconstituted Greater Germany, National Socialism will do everything necessary to "insure the means of existence" on this planet of the race assembled by the State, by means of establishing a "healthy relation" between the size of the population and the extent of the territory; by "healthy relation" is meant a situation such that the subsistance of the people will be assured by the resources of its own territory. "A sufficient living space on this earth will alone insure to a people its liberty of existence." (1)

But so far that is but a stage. "When a people sees its subsistance guaranteed by the extent of its territory, it is nevertheless necessary to think of insuring the security of that territory", because the power of a State "arises directly out of the military value of its geographical situation."

Those ends, Hitler adds, cannot be reached without a war. It will be impossible to obtain the reestablishment of the frontiers of 1914 "without effusion of blood." How much more would it be impossible to acquire living space if one did not prepare for a "clash of arms."

(1) (Page 726 of German Edition, 1936)

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"It is in Eastern Europe, at the expense of Russia and the neighboring countries that Germany must seek new territories. We arrest the eternal march of the Germans towards the South and the West of Europe and cast our eyes towards the South and the West of Europe and cast our eyes towards the East." (1)

But before anything, declares Hitler, it is necessary to crush France's tendency towards hegemony and to have a "final settlement" with this "mortal enemy." "The annihilation of France will enable Germany to acquire afterwards territories in the East." The "settlement of accounts" in the West is but a prelude. "It can be explained only as the securing of our rear defenses in order to extend our living-space in Europe." (2)

Henceforth, also, Germany will have to prevent the existence near her territory of a "military power" which might become her rival, and to oppose "by all means" the formation of a state which possibly might acquire sufficient strength to do so, and if that state exists already, to "destroy" it is, for the Germans, not only a <u>right</u> but a <u>duty</u>.

(1) Pp 741

(2) Pp 754

"Never permit," recommends Hitler to his compatriots, in a passage which he calls his political testament, "the formation in Europe of two Continental powers. In every attempt to set up a second military power on Germany's borders -- even if it were in the shape of a state which might possibly acquire that power -- you must see an attack on Germany. (1)

War to reconquer those territories lost in 1919, war to annihilate the p power of France, war to acquire living-space in eastern Europe, war, in fine, against any state which would be or which might become a counter-weight to the hegemony of the Reich, that is the plan of Mein Kampf.

In this way, from the inception of National Socialism, he does not recoil from any of the certainties of war entailed by the application of his doctrines

(2) In fact, from the moment of his accession to power, Hitler and his companions devoted themselves to the military and diplomatic preparation of the wars of aggression which they had resolved to wage. (1) pp 137

It is true that even before the accession to power of the National Socialists Germany had already shown her determination to reconstruct her armed forces, notably in 1932 when on the occasion of the Disarmament Conference,

(2) (page 727 of the German edition of 1936)

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she demanded "equality of rights" as regards armament, and Germany had already violated in secret the articles of the Treaty of Versailles regarding disarmament, but after the arrival of Hitler to power, German rearmament was to be ca carried out at a vastly different rate.

On 14 October 1933 the Reich left the Disarmament Conference and made known five days later its decision to withdraw from the League of Nations under the pretext that it was not granted equality of rights in the matter of armament. France had however expressed her readiness to accept equality of rights if Germany would first consent to an international control which would enable the level of existing armaments to be determined. Germany very obviously did not wish to agree to this condition, for an international control would have revealed the extent of the rearmament already carried out in secret by the Reich in violation of the treaties. As a matter of fact, at a cabinet meeting which took place on 12 October 1933, the minutes of which have been found, Hitler had declared that he wished to "torpedo" the Disarmament Conference. In these conditions it is not surprising that the attempts made to resume negotiations with Germany after her withdrawal ended in failure.

When 18 months later Hitler's government decided to reestablish conscription and to create immediately an army which would, on a peace establishment, comprise 36 divisions, as well as to create a military air force, it was breaking the engagements which Germany had undertaken by the Treaty of Versailles. However, on 3 February 1935, France and Great Britain had offered to the Reich to resume its place in the League of Nations and to prepare a general disarmament convention which would have been substituted for the military Articles of the Treaty. At the moment when Hitler was on the point of obtaining, by means of free negotiation, the abolition of the "unilateral burden" which, as he said, the Treaty of Versailles laid on Germany, he preferred to escape any voluntary limitation and any control of armaments by a deliberate violation of a treaty.

When it decided on 7 March 1936, to denounce the Treaty of Locarno and to reoccupy at once the demilitarized Rhineland area, thereby violating Articles 42 and 43 of the Treaty of Versailles, the German government alleged that in so doing it was replying to the pact concluded and signed on 2 May 1935 between France and the U.S.S.R. and ratified on 27 February 1936 by the French Chamber of Deputies. It alleged that this pact was contrary to the Treaty of Locarno. This was a mere pretext which was taken seriously by nobody. The Nazi leaders wanted to start building the Siegfried Line as soon as possible in the demilitarized Rhineland area, in order to thwart a military intervention which France

might attempt in order to assist her Eastern allies. The decision of 7 March 1936 was the prelude to the aggressions directed against Austria, Czechoslovakia, and Poland.

Internally, rearmament was achieved thanks to a plan of economic and financial measures which affected every aspect of national life. The entire economic system was directed towards the preparation of war. The members of the government proclaimed priority of armaments manufacture over all other branches of production. Policy passed before economics. The Fuehrer declared: "The people must be resigned for some time to having its butter, fats, and meat not rationed in order that rearmament may proceed at the desired rate." The German people did not protest against this order. The State intervened to increase the production of substitute goods which would help to relieve the insufficiency of raw materials, and would enable the Reich, in the event of war, to maintain the level of production necessary for the Army and Air Force, even if imports were to become difficult or impossible. The



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defendant Goering, in September 1936, inspired the drawing up and directed the application of the Four Years' Plan which put Germany's economic system on a war footing. The expenses entailed by this rearmament were assured thanks to the new system of work treaties. The defendant Schacht, during the three and a half years he was at the head of the Reich Ministry of Economics brought into being this financial machinery and thereby played an outstanding role in military preparations as he himself recalled, after he left the Ministry, in a speech that he made in November 1938 at the Economic Council of the German Academy.

Germany thus succeeded in three years time to re-create a great army and to create on the technical plane an organization entirely devoted to future war. On the 5th of November 1937, when expounding his plan for home policy to his collaberators, Hitler was able to state that rearmament was practically completed.

3). While Hitler's government was giving to the Reich the economic and financial means for a war of aggression he was carrying on simultaneously the diplomatic preparation of that war by endeavoring to reassure the threatened nations during the period which was indispensable to him for rearmament and by endeavoring also to keep apart his eventual adversaries one from the other.

In a speech on 17 May, 1933, Hitler asserted that he did not intend to obtain by force a revision of the Treaty of Versailles although in that speech he asked for it. He stated that he admitted "the legitimate exigencies of all peoples" and he asserted that he did not want to "Germanize those who are not Germans." He wished to "respect the rights of other nationalities."

The German-Polish non-aggression pact concluded on 26 January, 1934, was reassured for a time the Warsaw government and to lull it into a state of false security, but it was principally intended to remove a means of action from French policy. In a work published in 1939 entitled "Deutschlands Aussenpolitik 1933-39," a semi-official writer, Professor Von Freytag-Loringhoven wrote that the essential purpose of this pact was to paralyze the action of the Franco-Polish alliance and to "over-throw the entire French system."

On 26 May 1935, ten days after denouncing the military clauses of the



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Treaty of Versailles, Germany started negotiations with Great Britain which were to result in the naval agreement of 18 June 1935, negotiation which were intended to reassure British public opinion by showing it that while the Reich was desirous of becoming once more a great military power, it was not thinking of reconstituting a powerful fleet.

Immediately following the plebiscite of 13 January 1935 which decided the return of the Saar territory to the Reich, Hitler formally declared "that he would make not further territorial demands whatever on France." He was to use the same tactics towards France until the end of 1938. On 6 December 1938 Ribbentrop came to Paris to sign the Franco-German declaration which agreed "the frontiers as definite" between the two countries and which stated that the two governments were resolved "under reservation of their particular relations with third powers, to engage in mutual consultation in the event of questions of common interests which might show a risk of leading to international difficulties;" he was then still hoping, to quote the French ambassador in Berlin to "stabilize peace in the West in order to have a free hand in the East."

Did not Hitler make the same promises to Austria and Czechoslovakia? He signed on 11 July 1936 an agreement with the Vienese government, recognizing the independence of Austria, an independence which he was to destroy twenty months later. By means of the Munich agreement on 28 September 1938 he promised subsequently to guarantee the integrity of the Czech territory which he invaded less than six months later.

Nevertheless as early as 5 November 1937 in a secret conference held at the Reich Chancellery, Hitler had made known to his colleborators that the hour had struck to resolve by force the problem of the living-space required by Germany. The diplomatic situation was favorable to Germany. She had acquired superiority of armaments which ran the risk of being only temporary. Action should be taken without further delay.

Thereupon started the series of aggressions which have already been detailed to this court. It has also been shown to you that these various aggressions have been made in violation of international treaties and of the principles of International Law. As a matter of fact German propaganda did not challenge that at the time. It merely stated that those treaties and those principles "had lost any reality whatever with the passage of



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time." In other words, it simply denied that one's pledged word had any value, and that the principles which form the basis of International Law had become obsolete; this is a reasoning which is in line with the National Socialist doctrines which, as we have seen, do not recognize any International Law, and state that any means is justifiable if it is of a nature to serve the interests of the German race.

Chapter LII

(4) However, it is worth while looking into the various arguments which the propaganda made use of to justify the long-planned aggression.

Germany set forth, first of all, her vital interests. Can she not be excused for neglecting the rules of the rights of peoples when she was engaged in a struggle for the existence of her people? She needed economic expansion. She had the right and the duty to protect the German minorities abroad. She was obliged to ward off the encirclement which the Western powers were directing against the Reich.

Economic expansion was one of the reasons which Hitler put forward, even to his direct associates, in the secret conferences he held in 1937 and 1939 in the Reichschancellery. "Economic needs," he said, "are the basis of the policy of expansion of Italy and Japan. They also guide Germany".

But would not Hitler's Germany have been able to seek to satisfy these needs by peaceful means? Did she think of obtaining new possibilities for her foreign commerce through commercial negotiations? Hitler did not stop at such solutions. To solve the German economic problems, he saw only one way--the acquisition of agricultural territories--undoubtedly because he was incapbable of conceiving of these problems under any other form than that of "war economy". If he affirmed the necessity of obtaining this "agricultural space",--to use his own phrase,--it was because he saw therein the means of obtaining for the German population the food resources which would protect it against the consequences of a blockade.

The duty of protecting "the German minorities abroad" was the favorite theme which Germany's diplomacy made use of from 1937 to 1939. It could obviously not serve as an excuse for the destruction of the Czechoslovakian State or for the establishment of the "German Protectorate of Bohemia-Moravia". The fate of the "Sudenten Germans", that of the "Danzig Germans" was the leit-motif of the German press, of the Fuehrer's speeches and of Ribbentrop's propaganda speeches. Now, it is necessary to recall that in the secret conference of 5 November 1937

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in which Hitler draws up for his associates the plan of action to be carried out against the Czechoslovakian State, he does not say a ward about the " "Sudeten Germans", and to recall that in the conference of 23 May, 1939, he declares that Danzig is not the "principal point" of the German-Polish controversy? The "right of nationalities" was, therefore, in his mind only a propaganda method intended to mask the real design, which was the conquest of "living space".

The encirclement directed by the Western Powers against the Reich is the arguement which Hitler used when, on 28 April 1939, he denounced the Naval Agreement which he had concluded in 1935 with Great Britain. It occupied a great deal of space in the German White Book of 1939 relative to the origins of the war, but is it possible to speak of encirclement when Germany had, in May 1939, obtained the alliance with Italy and when, on 23 August 1939, she concluded the German-Russian Pact, and can we forget the diplomatic efforts of France and of Great Britain in respect to Greece, Rumania, Turkey, Poland are subsequent both to the destruction of the Czechoslovakian State and to the beginning of the German-Polish diplomatic conflict. Had not the British Prime Minister declared on 23 March 1939 before the House of Commons that British Policy had only two aims: to prevent Germany from dominating Europe and "to oppose a method which, by the threat of force, obliged the weak States to renounce their independence"? What Hitler Germany called "encirclement" was simply a fence belatedly built in an attempt to check measureless ambitions.

But German propaganda did not limit itself to this. Did we not witness one of its spokesmen make a parellel between the passivity of France and Great Britain in September 1938 and the resistance which they opposed in 1939 to the Hitler policy, from which it was concluded that the peace would have been maintained if the Western Powers had exercised pressure on Poland to bring it to accept the German demands, as they had exercised pressure the previous year on Czechoslovakia? A strange argument, which is equivalent to saying that Germany would have been willing not to make war if all the Powers had yeilded to her will. The excuse for the perpetrators of these violations is that France and Great Britain had for a long time opposed the violations of

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the rights of peoples by Germany by merely platonic protests.

Public opinion in France and Great Britain, deceived by Hitler's declarations, may have believed that the designs of National Socialism contemplated only settling the fate of German minorities; it may have hoped that there was a limit to German ambitions, and, ignorant as it was of the secret plans of which we have proof today, France and Great Britain allowed Germany to arm and re-occupy the Rhineland at the very moment when, according to the testimony of Ribbentrop, a military reaction on their part would, in March 1936, have placed the Reich in a critical situation; they permitted the aggression of March and September 1938, and it required the destruction of the Czechoslovakian State to make the scope of the German plans clear to the Allies. How can one be astonished that their attitude then changed and they decided to resist the German plans, and how could one still claim that the peace could have been "bought" in August 1939 by concessions, since the German secret documents prove that Hitler was determined on attacking Poland as early as May 1939 and that he would have been "deeply disappointed" if she had yielded and that he wished a general war?

In reality, the war was implied by the coming to power of the National Socialists; their doctrine inevitably led to it.

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## CHAPTER IV

(1) As Sir Hartley Shawcross forcefully brought out before your High Tribunal, war of aggression is self-evidently a violation of international law and , more particularly, a violation of the General Treaty for the Renouncement of War of 27 August 1928, under the name of the Paris Pact, or the Kellogg-Briand Pact, of which Germany is one of the signatories. This pact continues to constitute a part of international law.

May I re-read Article I of this Treaty:

"The High Contracting Parties solemnly declare, in the name of their respective peoples, that they condemn recourse to war for the solution of international disagreements and renounce it as an instrument of national policy in their reciprocal relations"

Wars of aggression thus ceased in 1928 to be lawful.

Sir Hartley Shawcross told you with eloquence that the Paris Pact, a new law of civilized nations, was the foundation of a better European order. The Paris Pact, which remains the fundamental charter of the law of war, indeed marks an essential step in the evolution of the relations between states. The Hague Conventions had regulated the "law of the conduct of war". They had instituted the obligation of recourse to arbitration as a preliminary to any conflict. They had, essentially, established a distinction between acts of war to which international law and custom allow recourse and those which it prohibits. The Hague Convention had not reached the very principle of war placed beyond the juridical domain. This is, in fact, what is brought into being by the Paris Pact, which regulates "the right of declaration of war". Since 1928 international law of war has emerged from its framework of regulations. It has gone beyond the empiricism of the Hague Convention to qualify the legal foundation of recourse to force. All war of aggression is illegal, and the men who bear the responsibility for bringing it about deliberately place themselves beyond the law.

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What does this mean, if not that all acts committed as a consequence of this aggression for the carrying on of the struggle thus undertaken will cease to have the juridical character of acts of war?

May I quote this well-known passage from Pascal:

"Why do you kill me? Don't you live on the other side of the water? My friend, if you lived on this side, I would be an assassin, and it would be unjust to kill you as I am doing, but since you live on the other side, I am an honorable man, and this is just."

Acts committed in the prosecution of a war are assaults on persons and goods which are themselves prohibited and entail sanctions in all legislations. The state of war could make them legitimate only if the war itself was legitimate. Inasmuch as this is no longer the case, since the Briand-Kellogg Pact, these acts become purely and simply common law crimes. As Justice Jackson has already argued before you with irrefutable logic, any recourse to war is a recourse to means which are in themselves criminal.

This is the whole spirit of the Briand-Kellogg Pact. It was intended to deprive the States who accepted it of the right of having recourse in their national interests to a series of acts directed against the physical persons or against the properties of nationals of a foreign power. Given this formal commitment, those who have ignored it have given the order to commit a prohibited act by the common law of civilized states, and there is here involved no special rule of international law like that which existed previously and which left the said acts of war untouched by any criminal qualifications.

A war declared in violation of international law no longer really possesses the juridical character of a war. It is truly an act of gangsterism, a systematically criminal undertaking.

This war, or this would-be war, is in itself not only a violation of international law, but, indeed, a crime, since it signifies the outbreak of this systematically criminal enterprise.

Inasmuch as they could not legally have recourse to force,

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those who dictated it, and who were the very organs of the state bound by solemn promises, must be considered as the very source of the numerous assaults upon life and property that are severely punished by all penal law.

One cannot, however, deduce from the preceding the individual responsibility of all the perpetrators of acts of violence. It is obvious that, in an organized modern state, responsibility is limited to those who act directly for the state, they alone being in a position to estimate the lawfulness of the orders given. They alone can be prosecuted, and they must be prosecuted. International law is sufficiently powerful to prevent the prestige of the sovereignty of states from being reduced to impotence. It is not possible to maintain that crimes against international law must escape repressive action because, for one thing, the state is an entity which one cannot impute criminal intention and upon which one cannot inflict punishment, and, for another, no individual can be held responsible for the acts of the state.

On the other hand, it can not be objected that, in spite of the illegality of the principle of recourse to force by Germany, the other states have admitted that war existed and speak of the application of international law in time of war. It must in fact, be noted that, even in the case of civil war, the parties have often invoked these rules which, to a certain extent, canalize the use of force. This in no wise involves or inplies acquiesence in the principle of its use and , indeed, when Great Britain and France communicated to the League of Nations the fact that a state of war existed between them and Germany as of 3 September 1939, they also declared that in committing an act of aggression against Poland, Germany had violated its obligations, assumed not only with regard to Poland but also with regard to the other signatories of the Paris Pact.

Recourse to war assumes preparations and decision; it would be futile to prohibit it if it was intended to inflict no

chastisement upon those who knowingly have recourse to it and have the power of choosing a different path. They must, indeed, be considered the direct instigators of the acts qualified as crimes.

It is evident from all this that the statute of 8 August only established a jurisdiction making it possible to judge what was already an international crime, not only before the conscience of humanity but before the rights of people even before the Tribunal was established.

(2) It it is not contested that a crime has really been committed, is it possible to contest the competence of the International Tribunal to judge it?

There can, indeed, be no doubt that the states bound by the treaty of 1928 had engaged their international responsibilities in regard to the co-signatories, should they act in a way contrary to the agreements undertaken.

International responsibility normally involves the collective state as such without in principle involving the individuals who have been perpetrators of an illegal act. It is within the framework of the state that there may be invoked an international responsibility and that, as a general rule the conduct of the men who are responsible for this violation of international law may be appraised. They are subject, as the case may be, to political responsibility or to penal responsibility before the competent jurisdictions./

/ The reason for this is that normally the framework of the state comprises the nationals; the order of the state assumes the exercise of justice over a given territory and with regard to the individuals whom it includes, and the failure of the state in the exercise of this essential mission is followed by the reaction and the protests of third powers, notably when their own nationals are involved.

But in the present situation, there is no German state.



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Since the surrender declaration of 5 June 1945 and until the day when a government shall have been established by the agreement of the Four Occupying powers, there will be no organ representing the German State. Under these conditions, it can not be considered that there exists a German State juridical order capable of drawing the consequences of a recognition of the responsibility of the Reich for the violation of the Briand-Kellogg Pact with regard to individuals who are, in fact, the perpetrators of this violation in their capacity as organs of the Reich.

Today the supreme authority is being exercised over the whole German territory in regard to the whole of German population by the Four Powers acting jointly. It must, therefore, be allowed that the states which exercise the supreme authority over the territory and population of Germany can bring the guilty before a jurisdiction. Otherwise, the proclamation that Germany has violated the solemn covenant which it has undertaken becomes meaningless.

There is involved, a criminal responsibility assumed for a series of acts, qualified as crimes committed in respect of the nationals of the United Nations. These acts, which are not juridically acts of war but which have committed as such upon the instigation of those who bear the responsibility for the unleashing of the so-called war, who have committed aggression upon the lives and the property of nationals of the United Nations, may, by virtue of the territorial principle and as we have argued above, be brought before a jurisdiction constituted to this effect by the United Nations, even as war crimes, properly speaking, are now being brought before the tribunals of each country whose nationals have been their victims.



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1). Crimes committed by the Nazis in the course of the war, like the war of aggression itself, will be, as Mr. Justice Jackson has demonstrated to you, the manifestation of a concerted and methodically executed plan.

These crimes flow directly, like the war itself, from the National Socialist doctrine. This doctrine is indifferent to the moral choice of means to attain a final success, and for this doctrine the aim of war is pillage, destruction and extermination.

Total war, totalitarian war in its methods and its aims, is dictated by the primacy of the German race and the negation of any other value. The Nazi conception maintains selection as a natural principle. The man who does not belong to the superior race counts for nothing. Human life and liberty, personality, the dignity of man even less, have no importance when an adversary of the German community is involved. It is truly "the return to barbarism" with all its consequences. Logically consistent, National Socialism goes to the length of assuming the right totally to exterminate either races regarded as hostile or decadent, or individuals and groups capable of resistance in the nations to be subjugated and put to use. Does not the idea of totalitarian war imply the annihilation of any eventual resistance? All those who in any way may be capable of opposing the New Order hegemony will be liquidated. It thus becomes possible to assure an absolute domination over a neighboring people reduced to impotence and to utilize, for the benefit of the Reich, the resources and the human material of these people reduced to slavery.

All the former conceptions which tended to humanize war are obviously outdated; more than this, all international conventions which had undertaken to bring some extenuation of the evils of war.

The conquered peoples must concur willingly or by force in the German victory by their material resources, as well as by their labor potential. Means will be found to subject them.

The treatment to which the occupied countries will be subjected is likewise related to this war end. As one could read in Deutsche Volkstraft of 13 June 1935:

"The totalitarian war will end in a totalitarian victory. 'Totalitarian' signifies the entire destruction of the conquered nation



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and its complete and final disappearance from the historic scene."

Among the conquered peoples distinctions can be made according to whether the National Socialists consider them as belonging or not belonging to the Master Race. For the first, an effort is made to integrate them into the German Reich in spite of themselves. For the latter, there is applied a policy of weakening them and bringing about their extinction by every means from that of appropriation of their property to that of extermination of persons. In regard to both groups, the Nazi rulers assault not only the property and physical persons, but also the spirits and souls. They seek to allign the populations according to the Nazi dogma and behavior when they wish to integrate them in the German community; they apply themselves at least to rooting out whatever conceptions are irreconcilable with the Nazi universe; they aim to reduce to a mentality and status of slaves those men whose nationality they wish to eradicate for the benefit of the German race.

Inspired by these general conceptions as to the conduct to observe in occupied countries, the defendants gave special orders or general directives or deliberately associated themselves with these. Their responsibility is that of perpetrators, co-perpetrators or accomplices in the war crimes systematically committed between 1 September 1939 and 8 May 1945 by Germany at war. They deliberately willed, premeditated and ordered these crimes, or knowingly associated themselves with this policy of organized criminality.

We shall expose the aspects of this policy of criminality as it was pursued in the occupied countries of Western Europe by dealing successively with forced labor, economic looting crimes against persons, and crimes against humankind.

2). The conception of total war, which gave rise to all the crimes which were to be perpetrated by the Nazi Germans in the occupied countries, was at the basis of the forced labor service. Through this institution, Germany proposed to utilize to the maximum the labor potential of the enslaved populations in order to maintain the German war production at the necessary level. Moreover, there can be no doubt that this institution was linked with the German plan of "extermination through labor" of the populations adjoining Germany which she regarded as dangerous or inferior.



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A document of the Supreme Command of the Armed Forces of Germany, dated 1 October 1938, provided for the forced employment of prisoners and civilians for war labor. Hitler in his speech of 9 November 1941 "did not doubt for a moment that in the occupied territories which we control at present, we shall make the last man work for us."

From 1942 on, it is under the admitted responsibility of the defendant Sauckel, acting together with the defendant Speer, under the control of the defendant Goering, General Plenipotentiary of the Four Year Plan, that obligatory foreign labor for the benefit of the war conducted by Germany received its whole development.

The most various methods of constraint were utilized simultaneously or successively:

First: Requisition of services under conditions incompatible with Article 52 of the Hague Convention;

Second: So-called voluntary labor, which consisted of bringing a worker under pressure to sign a contract to work in Germany;

Third: Conscription for obligatory labor;

Fourth: The forcing of war prisoners to work for the German war production and their transformation in certain cases into so-called free workers;

Fifth: The enrolling of certain foreign workers, notably French (Alsatians, Lorrainians) and Luxemburgers in the German Labor Front.

All these procedures constitute crimes contrary to the laws of peoples and in violation of Article 52 of the Hague Convention.

These service requisitions were made under threat of death. Voluntary labor recruiting was accompanied by individual measures of constraint, obliging the workers of occupied territories to sign contracts. The duration of these pseudo-contracts was subsequently prolonged unilaterally and illegally by the German authorities.

The failure of these measures of requisition or the voluntary recruitment of labor led the German authorities everywhere to have recourse to conscription. Hitler declared on 19 August 1942 in a conference on the Four Year Plan which was reported by the defendant Speer, that Germany "had to proceed to forced recruiting if sufficient labor was not obtained on a voluntary basis." On 7 November 1943 the defendant Jodl declared in



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the course of a speech given in Munich before the Gauleiters, "In my opinion the time has come to take vigorous, resolute, unscrupulous measures in Denmark, in Holland, in France and in Belgium in order to force thousands of idle men to carry out the all-important work of fortification."

Having accepted the principle of force, the Germans made use of two complementary methods: legal constraint, consisting of promulgating laws regulating obligatory labor; and restraint in fact, consisting of taking necessary measures to oblige workers under penalty of grave sanctions to conform to the announced legislation.

At the basis of the legislation on forced labor is the decree of 22 August 1942 of the defendant Sauckel, who formulated the charter of forced recruiting in all the occupied countries.

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In France, Sauckel got the so-called Government of Vichy to publish the law of 4 September 1942. This law effected the freezing of all manpower in industries and anticipated the possibility of a requisition of all Frenchmen who might be employed in any work useful to the enemy. All Frenchmen from eighteen to fifty years of age who did not have a job which occupied them more then thirty hours per week had to prove that they were usefully employed to meet the needs of the country. A decree of 19 September 1942 and an enabling directive of 22 September provided regulation for the various provisions of this decree. The law of 4 September 1942 had been published by the so-called Government of Vichy, following strong pressure exercised by the occupation authorities. Specifically, Dr. Michel, Chief of the Administrative Staff of the German Military Command in France, wrote on 26 August 1942 a threatening letter to the delegate General for Franco-German Economic Relations, requesting him to see that the law was published.

In 1943, Sauckel obtained from the defacto authority a directive under date of 2 February stipulating a census of all male Frenchmen born between 1 January 1912 and 31 December 1921. He also obtained the passing of the law of 16 February, establishing the Bureau of Compulsory Labor for all young men from twenty to twenty-two years of age. On 9 April 1943, Gauleiter Sauckel requested the deportation of 120,000 workers for the month of May and another 100,000 for the month of June. To accomplish this, the so-called Government of Vichy put into force the total mobilization of the military conscription class of 1942. On 15 January 1944, Sauckel requested the defacto French authorities to deliver a thousand men for the first six months of the year and he caused the adoption of the regulation designated as the Law of 1 February 1944, which extended the possibility of impressing all men from sixteen to sixty years of age and women from the age of eighteen to forty-five for forced labor.

Similar measures were taken in all occupied countries.

In Norway, the German authorities imposed on the so-called Government of Quisling the publication of a law under date of 3 February 1943, which instituted the compulsory registration of Norwegian citizens and prescribed their forced enrollment. In Belgium and in Holland, the Bureau of compulsory Labor was organized directly by ordinances of the occupying power. In Belgium the ordinances were promulgated by the military command, and in Holland by the defendant Seyss-Inquart, who was Reich Commissar for the occupied Netherland

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territories. In both of these countries the development of compulsory labor policy followed the same pattern. Compulsory labor was at first instituted only within the occupied territories. It was soon extended in order to permit the deportation of workers to Germany. This was achieved, in the case of Holland, by the ordinance of 28 February 1941, and in Belgium by the ordinance of 6 March 1942 which established the principle of forced labor. The principle of deportation was formulated in Belgium by means of the ordinance of 6 October 1942, and in Holland by the ordinance of 23 March 1942.

In order to insure the efficiency of these legal provisions, legal compulsion was exercised in all countries, numerous roundups in all large cities. For example, 50,000 persons were arrested in Rotterdam on 10 and 11 November 1944.

Even more serious than the forced labor of civilian population was the incorporation of laborers from occupied countries in the labor service of the Reich. This incorporation was not merely the conscription of laborers but meant in fact the application of German legislation to the nationals of occupied countries.

In the face of the patriotic resistance of the workers of the different occupied countries, the important results which the German Labor Office had anticipated were far from being fulfilled. However, a large number of workers from the occupied countries were forced to work for the German war effort.

With regard to the Todt Organization, the laborers who were employed in the West in the construction of the Atlantic Wall totalled 248,000 at the end of March 1943. In the year 1942, 3,300,000 workers from occupied countries worked for Germany in their own country. 300,000 of these were in Norway, 249,000 in Holland, 650,000 in France. The number of workers deported to Germany and coming fromthe occupied territories in the West increased in 1942 to the figure of 131,000 Belgians, 135,000 Frenchmen, 154,000 Hollanders. On 30 April 1943, 1,293,000 workmen, of whom 269,000 were women, coming from the occupied territories in the West were working for the German War Economy. On 7 July 1944, Sauckel stated that the number of workers deported to Germany during this first six months of 1944 reached a total of 537,000 of which 33,000 were Frenchmen. On the 1st of March 1944 he acknowledge during a conference held by the Central Office of the Four Year Plan, that there were in Germany 5,000,000 foreign workers, of whom 200,000 were actually volunteers.

The report of the French Ministry for prisoners of war, deportees and refugees, gives the figure of 715,000 for the total number of men and women

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who had been deported.

It should be added that contrary to International Law, the workers who were transported to Germany had to work under working conditions that were incompatible with the most rudimentary regard for human dignity. The defendant Sauckel has himself stated that foreign workers who could achieve substantial production should be fed so that they could be exploited as completely as possible with the minimum of expense, adding that they should receive less food the moment their production began to decrease and that no concern should be given to the fate of those whose production level no longer presented any interest. Special reprisal camps were organized for those who sought to avoid the compulsion imposed on them. An order of 21 December 1942 stipulated that unwilling workers should be sent without trial to such camps. In 1943, Sauckel during an inter-ministerial conference stated that the cooperation of the SS was essential to him in order to fulfill the task with which he had been entrusted. Thus the crime of forced labor and of deportation gave rise to a whole series of additional crimes against persons.

The work required of prisoners of war did not remain within the legal limits authorized by International Law any more than did that of the civilian laborers. National Socialist Germany obliged prisoners of war to work for the German war production, in violation of Articles 31 and 32 of the Geneva Convention.

3) - National Socialist Germany, while exploiting to the fullest extent for the war effort prisoners of war as well as workers from occupied countries, against all international conventions, was at the same time seizing by every possible means the wealth of these countries. German authorities applied systematic pillage in these countries. By economic pillage we mean both the taking away of goods of every type and the exploitation on the spot of the natural resources for the benefit of Germany's war.

This pillage was methodically organized.

The Germans began by making sure that they had in their possession in all countries the necessary means for payment. Thus they insured that they could seize, with the appearance of legality, the wealth which they coveted. After freezing the existing means of payment, they required enormous payments under the pretext of indemnity for the maintenance of occupation troops.

It should be recalled that according to the terms of the Hague Convention occupied countries may be obliged to assume the burden of the expenses caused by the maintenance of an army of occupation. But the amounts that were exacted

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under this by the Germans were far removed from the actual costs of occupation.

Moreover, they forced the occupied countries to accept a clearing system which operated practically for the exclusive profit of Germany. Imports from Germany were almost non-existent; the goods exported to Germany were subject to no regulation.

In order to maintain for the purchasing balance thus created a considerable purchasing power, the Germans endeavored everywhere to achieve the stabilization of prices and imposed a severe rationing system. This rationing system, which left for the population a quantity of goods which was less than the minimum indispensable for their existence, afforded the additional advantage of preserving for the benefit of the Germans the greatest possible portion of the production.

Thus, the Germans seized a considerable part of the stocks and of the production, as a result of operations which had the appearance of legality (requisitions, purchases made with German priority coupons, individual purchases). These transactions were completed by other operations of a clandestine character which were carried out in violation of the official regulations imposed frequently by the Germans themselves. Thus the Germans had created a whole organization for black market purchases. For example, one may read in a report of the German Foreign Ministry of 4 September 1942 that the defendant Goering had ordered that purchases on the black market should thenceforth extend to goods which until then had not been included, such as household goods, and he prescribed further that all goods which could be useful to Germany should be collected, even if as a result certain systems of inflations appeared in the occupied countries.

While they were transporting to Germany the maximum quantity of goods of every description, after requisitioning them without payment or by paying with bills which they had irregularly obtained by a simple entry in the clearing account, the Nazi leaders were at the same time endeavoring to impose the resumption of activity in industry for the benefit of Germany's war.

German industrialists had received instructions ordering them to divide amongst themselves the enterprises in the occupied areas which had engaged in a production similar to their own. While forcing them to fill out orders, these industrialists were required to place such industries in occupied countries firmly under their control by means of different types of financial combinations.

The appearance of monetary legality or contractual legality could in no

ways hide the fact that the economic looting was systematically organized, contrary to the stipulations of the International Convention of the Hague. If, according to the stipulations of this convention, Germany had the right to seize whatever was indispensable for the maintenance of the troops necessary for the occupation, all seizures in excess of these requirements undoubtedly constitute a war crime which brought about the economic ruin of the occupied countries, a long-range weakening of their economic potential and of their means of subsistence, as well as the general undernourishment of the populations. Exact estimates of German transaction in the economic field cannot be formulated at this time. It would be necessary for this purpose to study the details of the economic activities of several countries over a period of more than four years.

Nevertheless it has been possible to bring out certain facts and to give minimum estimates of German spoliations in regard to the different occupied countries.



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In Denmark, which was the first country in western Europe to be invaded, the value of German seizures was nearly 9,000,000,000 crowns. In Norway, Germany's spoliations exceed a total value of 20,000,000,000 crowns.

In the Netherlands, German pillage was effected to such an extent that a although Holland is one of the richest countries in the world in relation to its population, it is today almost completely ruined and the financial charges imposed by the occupant exceed 20,000,000,000 florins.

In Belgium, through various schemes, notably the system of occupation indemnity and clearing, the Germans seized far more than 30,000,000,000 francs of payment balances. The Grand Duchy of Luxembourg also suffered important losses as a result of the action of the occupying power.

Finally in France the seizures on means of payments reached a total of 745,000,000,000 francs. In this sum we have not included the 74,000,000,000 which represents the maximum figure which Germany could legally demand for the maintenance of her army of occupation. (Moreover, the seizure of 9,500,000,000 in gold was calculated according to the rate of 1939.)

In addition to the goods settled for in the occupied countries by means of payment which had been forcibly seized from these countries, enormous quantities of goods of every character were purely and simply requisitioned without any indemnity, seized without any explanation, or stolen. The occupying authorities took not only all raw materials and manufactured goods which could be useful to their war efforts, but they extended their seizures to everything that might help to procure them a credit balance in neutral countries, such as real estate, jewels, luxury goods and objects. Finally, the artistic treasures of the countries of western Europe were likewise looted in the most shameful manner.

The considerable amounts which Germany was able to obtain by abusing her power contrary to all the principles of International Law, without providing any counterpart, enabled her to carry out with the appearance of legality the economic looting of France and of the other countries of western Europe. The consequence for these countries, from the economic viewpoint, is a loss of their strength which will take many years to repair.

But the greatest consequence of these practices affected the population itself. For more than four years, the people of the occupied countries were exposed to a regime of slow starvation, which resulted in an increase in the death rate, a breaking down of the physical stamina of the population and, above all, an alarming deficiency in the growth of children and adolescence.



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Such practices perpetrated and consummated systematically by the German leaders contrary to International Law and specifically the Hague Convention, as well as contrary to the general principle of criminal law in force in all civilized nations, constitute war crimes for which they must answer before this Tribunal.

4) - Crimes against the physical person. Arbitrary imprisonment, ill treatments, deportations, murder even, committed by the Germans in the occupied countries reached proportions beyond what could be imagined even in the course of a world conflict. These crimes took the most odious forms.

Such crimes spring directly from the Nazi doctrine and testify among the leaders of the Reich to an absolute scorn for the human individual, to the abolition of any sense of justice or even of pity, to a total subordination of any human consideration unless it be to the interest of German collectivity.

All these crimes are related to a policy of terrorism. Such a policy permits the subjugation of occupied countries without involving a large deployment of troops submissive to anything that might be demanded of them. Many of these crimes are moreover related to the will to exterminate. We shall examine in succession executions of hostages, police crimes, deportations, crimes involving prisoners of war, terroristic activities against the Resistance and the massacre of civilian populations.

A - The execution of hostages constitutes in all countries the first acts of terrorism on the part of German occupation troops. As early as 1940, the German High Command in France notably, carried out numerous executions as reprisals for any crime against the German army.

5 These practices contrary to Article 50 of the Hague Convention which forbids collective sanctions, awaken everywhere a sentiment of horror and frequently produce a result contrary to the one sought, by arousing the populations against the occupant.

The occupying authorities then endeavored to legalize such criminal practices thus seeking to have them recognized by the populations as "the right of the occupying power. Veritable "codes for hostages" are promulgated by the German military authorities.

Following the general order issued by the defendant, Keitel, on 16 December 1941, Stuelpnagel published in France his ordinance of 30 September 1941. According to the terms of this ordinance, all Frenchmen held by German authorities for any reason whatsoever will be considered as hostages, as well as all

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Frenchmen who are in the custody of the French authorities on behalf of German organizations. The ordinance of Stuelpnagel specifies: "at the time of the burial of the bodies, burial in a common grave of a rather large number of persons in a particular cemetery must be avoided since this would create a shrine for pilgrims which now or later might become a center for the stimulation of anti-German propaganda."

In the execution of this ordinance the most tragic known executions of hostages were carried out.

Following the murder of two German officers, one in Nantes on 2 October 1941, and the other at Bordeaux a few days thereafter, the German authorites had 27 hostages shot at Chateaubriant, and 21 at Nantes.

On 15 August 1942, 96 hostages were shot at Mont-Valerien.

In September 1942, an assault had been committed against German soldiers in the Rex moving picture house in Paris. 116 hostages were shot. 46 hostages were taken from the hostage depot of the Fortress at Romainville and 70 from Bordeaux.

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In reprisal for the murder of a German official of the labor front, 50 hostages were shot in Paris at the end of September 1943.

The threat of reprisals on the families of the patriots of the resistance is allied to the same hateful policy of hostages. The commanding officer published the following notice in the Pariser-Zeitung of 16 July 1942: "near male relatives, brothers-in-law and cousins of the agitators above the age of 18 years shall be shot.

"All female relatives of the same degree shall be condemned to forced labor."

"Children of less than 18 years of all the above-designated persons shall be sent to a house of correction".

The execution of hostages continued everywhere until the liberation, but in the last period they were no more than one additional feature in the methods of German terrorism, then grown more sweeping.

B- Among the crimes against persons of which the civilian populations of the occupied countries of the West were victims, those committed by the Nazi police organizations are among the most revolting.

The intervention of the German police who, in spite of certain appearances, did not belong to the armies of occupation, is in itself contrary to international law.

Its crimes, particularly hateful in the complete disregard for human dignity that they imply, were multiplied during four years throughout all the territories of the West occupied by German forces.

True, no definite order, no detailed directive emanating directly from one of the defendants or from one of their immediate subordinates and valid for all the German police or for the police of the occupied territories of the West, has been found. But these crimes were committed by a police that was direct expression of the National Socialist ideology and the undeniable instrument of National Socialist policy for which all the defendants carry the full and entire responsibility.

Before the considerable mass of acts, their similarity, their simultaneity, their generalization in time and place, no one would be able to deny that these acts are not only the individual responsibility of those who committed them here or there, but constitute as well the execution of orders from above.

The arrests took place without any of the elementary guarantees recognized in all civilized countries. On a simple unverified denunciation, and without

previous investigation, and often without the persons who brought the charges being qualified to bring them, masses of arbitrary arrests took place in every occupied country.

During the first period of the occupation, the Germans nevertheless simulated a scrupulous respect for "legality" in the matter of arrests. This legality was that introduced by Nazism in the interior of Germany and did not respect any of the traditional guarantees to which the individuals in civilized countries are entitled. But rapidly even this pseudo-legality was abandoned and the arrests became absolutely arbitrary.

The worst treatments were applied to arrested persons even before the culpability of the accused has been examined. The use of torture in the interrogations was almost a general rule. The tortures usually applied are beating, whipping chaining for several days without a moment of rest for nourishment or hygienic care. Immersion in ice water, drowning in a bathtub, charging the bathwater with electricity, electrification of the most sensitive parts of the body, burns at certain places on the body, tearing out of finger-nails. But, moreover, those who carried out the measures had every latitude for unleashing of their instinct of cruelty and of sadism with respect to their victims. All these facts which were of public knowledge in the occupied countries never occasioned any penalty whatsoever against their authors on the part of the responsible authorities. It even seemsthat the torture was more severe when an officer was present.

It is incontestable that the actions of the German police toward the prisoners were part of a premeditated system of criminality ordered by the chief of the regime and executed by the most faithful members of the National Socialist organizations.

Aside from the general use of torture on prisoners, the German police perpetrated a considerable number of murders. It is impossible to know the conditions of many of these murders. Nevertheless we have enough information to permit us to discover in them a new expression of the general policy of the National Socialists in the occupied countries. Often the deaths were only the result of the tortures inflicted on the prisoners, but often the murder was deliberately decided upon and executed.

C. - The crime which will doubtless remain the most tragically memorable among those committed by the Germans against the civilian populations of the occupied countries was that of deportation and internment in the concentration camps of Germany.



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These deportations had a double aim: to assure supplementary work for the benefit of the German war machine, to eliminate the occupied countries and progressively exterminate the elements most opposed to Germanism. They served equally to empty prisons overcrowded with patriots and to remove the latter for good.

The deportations and the methods employed in the concentration camps were a stupefying revelation for the civilized world. Nevertheless they also are only a natural consequence.

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of the National Socialist doctrine, according to which man has no value in himself when he is not in the service of the German race.

It is not possible to give exact figures. It is probable that one would remain under the truth in speaking of 250,000 for France, 6,000 for Luxembourg, 5,200 for Denmark, 5,400 for Norway, 120,000 for Holland, 37,000 for Belgium.

The arrests are founded now on a pretext of political order, now on a pretext of racial order. In the beginning they were individual; subsequently they took on a collective character, particularly in France from the beginning of 1941 on. Sometimes the deportation did not come until after long months of prison, but most often the arrest was made directly with a view to deportation under the regime of "protective custody". Everywhere imprisonment in the country of origin was accompanied by brutality, often by torture. Before being sent to Germany, the deportees were in general concentrated at an assembly camp. The formation of a convoy was often the first stage of extermination. The deportees traveled in cattle cars, 80 to 120 per car, no matter what the season. There were few convoys where no deaths occurred. In certain transports the proportion of deaths was more than 25%.

The deportees were sent to Germany, almost always to Concentration Camps but sometimes to prisons too.

The prisons took in those deportees who had been condemned or were awaiting trial. The prisoners there were crowded together under inhuman conditions. Nevertheless the way the prisons were run was generally less severe than was the case with the camps. The work there was less out of proportion to the strength of the prisoners and the prison wardens were less hard than the SS in the concentration camps.

It appears to have been the plan followed by the Nazis in the concentration camps gradually to do away with the prisoners, but only after their working strength had been used to the advantage of the German war effort.

The Court has been told of the almost inconceivable treatment inflicted by the SS on the prisoners. We shall take the liberty of going into still further detail during the course of the statement of the French Public Prosecutor, for it should be fully known to what extent the Germans inspired by National-Socialist doctrine could stoop to honor.

The most terrible aspect is perhaps the desire to create moral degradation and debasement in the prisoner until he loses, if this is possible, all semblance of a human individual.

The usual living conditions imposed on deportees in the camps were sufficient to ensure slow extermination through inadequate feeding, bad sanitation, the cruelty of the guards, the severity of the discipline, the strain of work out of proportion to the strength of the prisoner, and the haphazard medical service. Moreover you already know that many did not die a natural death, but were put to death by injections, the gas chamber, or from being inoculated with fatal diseases.

But more speedy extermination was often the case, it was often brought about by ill treatment: communal ice-cold showers in winter in the open air, prisoners left naked in the snow, cudgelling, dog bites, hanging by the wrists. Some figures will illustrate the result of these various methods of extermination. At Buchenwald, during the first period of 1945 there were 13,000 deaths out of 40,000 internees. At Dachau 13 to 15,000 died in the 3 months preceding the liberation. At Auschwitz, camp of systematic extermination, the number of murdered persons came to several million.

As to the total number of those deported from France, the official figure is as follows:

Of 250,000 deported only 35,000 returned.

The deportees served as guineapigs for numerous medical, surgical or other experiments which generally led to their death. At Auschwitz, at Strutoff, in the prison at Cologne, at Ravensbruck, at Neungeamme, numerous men, women and children were sterilized. At Auschwitz the most beautiful women were set apart, artifidally fertilized and then gassed. At Struthoff a special barrack, isolated from the others, by barbed wire, was used to inoculate men in groups of 40 with fatal illnesses. In the same camp women were gassed whilst German doctors observed their reactions through a peephole arranged for this purpose.

Extermination was often directly effected by means of individual or collective executions. These were carried out by shooting, by hanging, by injections, by gas lorry or gas chamber.

I do not wish to further stress the facts, already so numerous, submitted to your High Tribunal during the preceding days by the American Prosecutor, but the representative of France, so many of whom have died in these camps after



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horrible sufferings, could not pass in silence this tragic example of complete inhumanity. This would have been inconceivable in the 20th century if a doctrine of return to barbarism had not been established in the center of Europe.

D) Crimes committed against prisoners of war, although less known, bear ample testimony to the degree of inhumanity which Nazi Germany had attained.

To begin with the violations of international conventions committed against prisoners of war are numerous. Many were forced to travel on foot, almost without food, very long distances. Many camps had no respect for even the most elementary rules of hygiene. Food was very often insufficient; thus a report from the OKW of the WFSP dated 11 April 1945 and annotated by the defendant Keitel, shows that 82,000 prisoners of war interned in Norway received the food strictly indispensable to the maintenance of life on the assumption that they were not working, whereas 30,000 of them were really employed on heavy work.

In agreement with the defendant Keitel, acting at the request of the defendant Goering, camps for prisoners belonging to the English and American Air Forces were established in towns which were exposed to air raids.

Contrary to the text of the Geneva Convention, it was decided, at a conference held at the Fuehrer's Headquarters on the 27 January 1945, in the presence of the defendant Goering, to pass the death sentence on all attempts to escape made by a prisoner of war when in convoy.

Besides all these violations of the GenevaConvention, numerous crimes have been committed by the German authorities against prisoners of war: execution of captured allied airmen, murder of commandos, collective extermination of certain prisoners of war for no reason whatsoever, e.g. of 120 American soldiers at Malmedy on 27 January 1945. Parallel with "Nacht und Nebel", expression for the inhuman treatment inflicted on civilians, can be put down "Sonderhandlung," "special treatment" of prisoners of war when these disappeared in great numbers.

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The same barbarity is found in the terroristic action carried out by the German Army and police against the Resistance.

The Order of the Defendant Keitel of the 16th September 1941, which may be considered as a basic document, certainly has as a purpose the fight against the Communist movements but it foresees that resistance to the army of occupation can come from other than Communist sources and decides that every case of resistance is to be interpreted as having a Communist origin.

As a matter of fact, in carrying out this general order to annihilate the Resistance by every possible means, the Germans arrested, tortured and massacred men of all conditions and of all social classes.

To be sure, the members of the Resistance rarely complied with the conditions laid down by the Hague Conventions, which would qualify them to be considered as regular combatant forces. They could be sentenced to death as francs-tireurs and executed; but they were assassinated without trial in most of the cases, often after having been terribly tortured.

After the Liberation, numerous charnel-houses were discovered and the bodies examined by doctors. They bore evident traces of extremely brutal treatment. The skin and flesh had been torn from their heads, the spinal column had been dislocated, the ribs had been so badly fractured that the chest had been entirely crushed and the lungs perforated, hair and nails had been pulled out.

It is impossible to determine the total number of the victims of German atrocities in the struggle for the Resistance. The number is certainly very high. In the department of the Rhone alone, for example, the bodies of 713 victims were discovered after the Liberation.

An order of the 3rd of February 1944, of the High Command of the Western Forces, signed P.O. General Sperrle, laid down for the struggle against the terrorists the immediate reply by fire-arms and the immediate burning down of all houses from which shots had come. "It is of little importance" the text adds, "that innocent people should suffer. It will be the fault of the terrorists. All commanders of troops who will show weakness in repressing the terrorists will be severely punished. On the other hand those who exceed the orders received and are too severe, will incur no penalty."

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The War Diary of von Brodowski, commanding the Chief Liaison Staff No. 588, at Clermont--Ferrand, gives irrefutable examples of the barbarous forms which the Germans gave to the struggle against the Resistance. The resisters caught were almost all shot on the spot. Others were turned over to the SD or to the Gestapo to be first subjected to torture. The Diary of Brodowski mentions "the cleaning up of a hospital" or "Liquidation of an infirmary."

The struggle against the Resistance had the same atrocious character in all the occupied territories of the West.

F). The last months of the German occupation were characterized in France by strengthening of the policy of terrorism which multiplied the crimes against the civilian populations. The crimes which we are going to consider were not isolated acts committed from time to time in such or such locality, but were acts perpetrated in the course of extensive operations; the high number of which can only be explained by general orders.

The perpetrators of these crimes are frequently members of the SS, but the military command shares responsibility for them. In a directive entitled "Fight Against the Partisan Bands," dated the 6th of May 1944, the defendant Jodl states that "the collective measures to be taken against the inhabitants of entire villages (including the burning down of these villages) are to be ordered exclusively by the division commanders or the heads of the SS troops and of the police."

The War Diary of von Brodowski mentions the following: "It is an understood thing that the leadership of the S.I.P.O. and of the S.V. shall remain subordinate to me."

All these operations are supposedly measures of reprisal which were caused by the action of the Resistance; but the necessities of war have never justified the plundering and heedless burning down of towns and villages or the blind massacres of innocent people. The Germans killed, plundered, burned down, very often without any reason whatsoever, whether in the regions and departments of the Ain, in Savoy, Lot, Tarn-and-Garonne, in Vercors, Corrèze or Dordogne. Entire villages were burned down when at the time the nearest armed groups of the Resistance were tens of kilometres away and the population of these villages had not made a single hostile gesture towards German troops.

The two most typical examples are those of Maillé (in Indre and Loire) where on the 25 of August 1944, 52 buildings out of 60 were destroyed and 124 people were killed; and that of Oradour-Sur-Glane (in the Haute-Vienne). The War Diary of von Brodowski makes mention of the latter act in the following manner:

"All the male population of Oradour was shot. The women and children took refuge in the church. The church caught fire. Explosives were stored in the church. (This assertion has been shown to be false.) All the women and all the children perished."

5). In the scale of criminal undertakings perpetrated in the course of the war by the leaders of National Socialist Germany, we finally meet a category which we have called: Crimes against humanity.

First of all it is important that I should clearly define for the Tribunal the meaning of this term. This classical French expression belongs both to the technical vocabulary of law and to the language of philosophy. It designates all of those faculties, the exercising and developing of which rightly constitute the meaning of human life. Each of these faculties finds its corresponding expression in the regulation of the existence of mankind in society. Its belonging to at least two social groups--the nearest and the most extensive--is translated by the right to family life and to nationality. Its relations with the powers constitute a system of obligations and guarantees. Its material life as producer and consumer of goods is expressed by the right to work in the widest meaning of this term. Its spiritual aspect implies an ensemble of possibilities to give out and receive the expressions of thought, whether in assemblies or associations, in religious practice, in teachings given or received, by the many means which progress has put at the disposal of intellectual propaganda: books, the press, radio, cinema. This is the right of spiritual liberty.

Against this humanity, against the statutes of private and public law, concerning human beings in occupied territories, the German Nazis directed a systematic policy of corruption and perversion. We shall treat this question last because it is the encroachment which presents a character of the utmost gravity and which has assumed the character of the most extensive generality.



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Man is more attached to his physical integrity and to life than to his property. But in all high conceptions of life, man is even less attached to life than to that which makes for his dignity and quality, according to the great Latin maxim: "Et propter vitam vitandi perdere causas." On the other hand, if in the territories occupied by them, the Germans did not, in spite of the importance and extent of their crimes, plunder all the property and goods and if they did not kill all the people, there remains not a single man whose essential rights they did not change or abolish and whose condition as a human being they did not violate in some way. We can even say that in the entire world and as regards all people, even those to whom they reserved the privileges belonging to the superior race and even as regards themselves, their agents and accomplices, the Nazi leaders committed a major offense against the conscience which mankind has evolved today from his condition as a human being.

The execution of the enterprise was preceded by its plan. This is manifest in the entire Nazi doctrine and we shall content ourselves by recalling a few dominant traits. Humanity expresses itself, we say, in major statutes, everyone of which comprises a complex apparatus of various provisions. But these statutes are inspired in the laws of civilized countries by an essential conception of the nature of mankind. This conception is defined in two complementary ideas: The dignity of the human person considered in every person individually on one hand and on the other hand, the permanancy of the human b ing considered within the whole of humanity.

Every juridical organization of the human being in a state of civilization proceeds from this essential twofold conception of the individual, in each and in all, the individual and the universal. Without doubt, to Occidentals this conception usually appears as bound up with the Christian doctrine; but if it is exact that Christianity asserted and spread this conception, it would be a mistake to see in it only the mere teachings of one or even of certain religions. It is a general conception which comes quite naturally to one's mind. It was professed in ancient pre-Christian times and in more recent times the great Germanic philospher Kant expressed it in one of his most forceful formulas "The human being must always be considered as an end and never as a means."



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The role, as we have already stated, of the followers of the Hitlerian faith was to protest against spontaneous affirmation of the genius of mankind and to claim breaking at this point the continuous progress of moral intelligence. The tribunal is already acquainted with the abundant literature of this sect. Without a doubt nobody expressed himself more clearly than the defendant Rosenberg when he declares in the "Myth of the XXth Century", page 539: "Peoples whose health is dependent on their blood do not know individualism as a criterion of values, any more than they recognize universalism. Individualism and universalism in the absolute sense and historically speaking are the metaphysics of decadence". Nazism professes, moreover, that "The distance between the lowest human being still worthy of this name and our higher races is greater than that between the lowest type of mankind and the best educated monkey". (Die Rëden Hitlers Reichsparteitag 1933, page 33) ... Thus it is not only a question of abolishing the truly divine conception which religion sets forth as regards man, but even to set aside all purely human conceptions and to substitute for it an animalistic conception.

As a consequence of such a doctrine, the upsetting of the human condition does not only appear to be a means to which one has recourse in the presence of temporary opportunities such as those arising from war, but also appears as an aim both necessary and desirable. The Nazis propose to classify mankind into 3 main categories. That of their adversaries or persons whom they consider inadaptable to their strange constructions: this category can be bullied in all sorts of manners and even destroyed. That of higher mankind which they claim is distinguishable by its blood or by some arbitrary means. That of inferior mankind, which does not merit destruction and whose vital power should be used in a regime of slavery for the well-being of the "overlords". The Nazi leaders proposed to apply this conception everywhere where they could do so; to territories more and more expansive; to populations becoming ever greater; and in addition demonstrated the frightful ambition of succeeding in

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imposing it on intelligent people, of convincing their victims and of demanding from them, in addition to so many sacrifices, an act of faith. The Nazi war is a war of fanatical religion in which one can exterminate infidels and equally well force them to conversion. It should further be noted that the Nazis aggravated the excesses of these horrible times, for in a religious war converted adversaries were received like brothers, whereas the Nazis never gave their pitiable victims the chance of saving themselves even by the worst recanting.

It is by virtue of these conceptions that the Germans undertook the germanization of occupied territories, and had without a doubt the intention of trying to germanize the whole world. This germanization can be distinguished from the ancient theories of pan-germanism inasfar as it is both a Nazification and an actual return to barbarism.

Racialism classifies occupied nations into two main categories; germanization means for some a national socialist assimilisation and for the others disappearance or slavery. For human beings classed as of higher races the more favoured condition assigned to them comprises the falling-in with the new concepts of the Germanic community. For human beings of the so called "inferior race" it was proposed either to abolish all rights whilst awaiting and preparing their physical classifying, or to assign them to servitude.

For both, racialism means acceptance of the Nazi myths.

This twofold program of absolute germanization was not carried out in totality nor in all occupied countries. The Germans had conceived it as a lengthy piece of work which they intended to carry out gradually, by a series of successive measures. This progressive approach is always characteristic of the Nazi method. It fits in, apparently, both with the variety of obstacles encountered, the hypocritical desire of sparing public opinion, and with a horrid lust for experimenting and scientific ostentation.

When the countries were liberated, the state of the germanization varied a lot according to the different countries, and in each country according to such and such a category of the population. Sometimes the method was forced on to its extreme consequences; elsewhere one only discovers the appearance of preparatory arrangements.

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But it is easy to note everywhere the trend of the same evil, interrupted at different points in its development, but everywhere directed by the same inexorable movement.

As regards national status, the Germans proceeded on a pure and simple annexation basis in Luxembourg, in the Belgian cantons of Eupen and of Malmedy, and in the French departments of Alsace and of Lorraine. Here the criminal undertaking consisted in both the abolition of the sovereignty of the State, natural protector of its nationals, and the abolition for these nationals of the status they had as citizens of this State, a status recognized by domestic and international law.

The inhabitants of these territories lost thereby their original nationality, ceasing to be Luxembourgers, Belgians, or French. They did not acquire, however, full German nationality; they were admitted only gradually to this singular favor, on the further condition that they furnish certain justifications therefor.

The Germans sought to efface in them even the memory of their former country. In Alsace and in Moselle the French language was banned, names of places and of people were Germanized.

New citizens or mere subjects were equally subject to the obligations relating to the Nazi regime; to forced labor naturally, and soon to military conscription. In case of resistance to these orders--unjust and abominable as they were, since it was a matter of arming the French against their allies and in reality against their own country--sanctions were brought to bear, not only against the parties concerned, but even against the members of their families, following the theses of Nazi law, which brushes aside the fundamental principles of the law against repression.

Persons who appeared recalcitrant to Nazification, or even those who seemed of little use to Nazi enterprises, became the victims of large-scale expulsions, driven from their homes in a few hours with the most scanty baggage, and despoiled of their property.

Yet this inhuman carrying away of entire populations, which will remain one of the horrors of our century, appears as favor-

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able treatment when compared to the deportations which were to fill the concentration camps, in particular the Struthof camp in Alsace.

At the same time that they oppressed the population by force and in contravention of all law, the Nazis undertook, according to their method, to convince the people of the excellence of their regime. The young people especially were to be educated in the spirit of National Socialism.

The Germans did not proceed to the annexation, properly speaking, of other areas than those we have named; it is beyond doubt, however, and confirmed by numerous indications, that they proposed to annex territories much more important by applying to them the same regime if the war had ended in victory.

But everywhere they prepared the abolition or the weakening of the national position by debarring or damaging the sovereighty of the state involved, and by forcing the destruction of patriotic feeling.

In all the occupied countries, whether or not there existed an apparent governmental authority, the Germans systematically disregarded the laws of occupation. They legislated, regulated, administered. Besides the territories actually annexed, the other occupied territories also found themselves in a state that could be defined as a state of pre-annexation.

This leads to a second aspect which is the attack on spiritual security. Everywhere, although with variations in time and in place, the Germans acted to abolish the public freedoms, notably freedom of meeting and freedom of the press; and they endeavored to trammel the essential freedoms of the spirit.

The German authorities subordinated to the strictest censorship, even in matters devoid of military character, a press many of whose representatives, moreover, were inspired by them. Manifold restrictions were imposed on the moving picture industry and commerce. Numerous works absolutely without political character were banned, even textbooks. Religious authorities themselves saw their clerical province invaded and words of truth could not be heard.

After having curtailed freedom of expression even beyond the degree that a state of war and of occupation could have justified, the Germans developed their National Socialist propaganda systematically through press, radio, film, meeting, book, poster.

All these efforts achieved so little result that one might attempt today to minimize their importance. Nevertheless, the propaganda conducted by means most contrary to the respect due human intelligence, and on behalf of a criminal doctrine, must go down in history as one of the shames of the National Socialist regime.

No less did the Germanization program compromise human rights in the other broad areas that we have defined: right of the family, right of professional and economic activity, juridical guarantees. These rights were attacked, these guarantees were curtailed.

The forced labor and the deportations infringed the rights of the family, as well as the rights of labor. The arbitrary arrests suppressed the most elementary legal guarantees. In addition, the Germans tried to impose their own methods on the administrative authorities of the occupied countries and sometimes unfortunately succeeded in doing so.

It is also known that racial discriminations were provoked against citizens of the occupied countries who were catalogued as Jews, measures particularly hateful, damaging to their personal rights, and to their human dignity.

All these criminal acts were committed counter to the rules of international law, and of the Hague Convention in particular, which limits the rights of armies occupying a territory.

The battle the Nazis waged against humanity completes the tragic and monstrous picture of the war criminality of Nazi Germany, which advanced under the banner of the abasement of man--a deliberate requirement of the National Socialist doctrine. This gives it its true character of a systematic attempt to return to barbarism.

Such are the crimes which National Socialist Germany committed while waging the war of aggression that she launched. The martyred peoples appeal to the justice of civilized nations and request your high Tribunal to condemn the National Socialist Reich in the person of its surviving chiefs.



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Let the accused not be astonished at the charges brought against them and let them not dispute at all this principle of retroactivity, the permanence of which was guaranteed, against their wishes, by democratic legislation. War crimes are defined by international law and by the national law of all modern civilizations. The accused knew that acts of violence against the persons and property and human rights of enemy nationals were crimes for which they would have to answer before international justice.

The governments of the United Nations have addressed many a warning to them since the beginning of the hostilities.

On 25 October 1941, Franklin ROOSEVELT, President of the United States of America, and Winston CHURCHILL, Prime Minister of Great Britain, announced that the war criminals would not escape just punishment. "The massacres of France", said Churchill, "are an example of what Hitler's Nazis are doing in many other countries under their yoke. The atrocities committed in Poland, Yugoslavia, Norway, Holland, Belgium, and particularly behind the German front in Russia, exceed anything that has been known since the darkest and most bestial ages of humanity. The punishment of these crimes should now be counted among the major goals of the war."

During autumn 1941, the representatives of the governments of the occupied countries met at London upon the initiative of the Polish and Czech governments. They worked out an inter-allied declaration which was signed the 13th of January 1942. I permit myself to remind the Tribunal of its terms.

"The undersigned, representing the Governments of Belgium, of Czechoslovakia, the National Committee of Free France, the Governments of Greece, of Luxembourg, of the Netherlands, of Poland and of Yugoslavia,

"Whereas Germany, from the beginning of the present conflict, which was provoked by her policy of aggression, set up in the occupied countries a regime of terror characterized, among other things, by imprisonment, mass deportations, massacres, and execution of hostages;

"Whereas these acts of violence are committed equally by the allies and associates of the Reich, and in certain countries by citizens collaborating with the occupying power;



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"Whereas international solidarity is necessary in order to prevent these deeds of violence from giving rise to acts of individual or collective vengeance, and finally in order to satisfy the spirit of justice in the civilized world;

"Recalling to mind that international law and, in particular, the Hague Convention signed in 1907, concerning the laws and customs of land war, do not permit belligerents to commit acts of violence against civilians in occupied countries, or to violate laws which are in force or to overthrow national institutions;

1) Affirming that acts of violence thus committed against civilian populations have nothing in common with the conceptions of an act of war or a political crime as this is understood by civilized nations,

2) They take note of the declarations made in this respect on 25 October 1941, by the President of the United States of America and the British Prime Minister,

3) They place among their chief war aims, the punishment by means of organized justice of those guilty of or responsible for these crimes, whether they ordered, or perpetrated, or shared in them,

4) They have decided to see to it in a spirit of international solidarity that: a) those guilty or responsible, whatever their responsibility, shall be sought out, brought to justice, and be judged. b) that the sentences pronounced shall be executed.

In faith of which, the undersigned, being duly authorized, to this effect, have signed this declaration".

The leaders of National Socialist Germany received other warnings.



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I refer to the speech of General de GAULLE of 13 January 1942; that of CHURCHILL on 8 September 1942, the note of Mr. Molotov, Commissar of the People for Foreign Affairs of the Soviet Union, of 14 October 1942 and the second inter-allied declaration of 17 December 1942. The latter was made simultaneously at London, Moscow and Washington after receipt of information according to which the German authorities were engaged in exterminating the Jewish minorities in Europe. In this declaration, the Governments of Belgium, Czechoslovakia, Greece, Luxemburg, the Netherlands, Norway, Poland, the United States of America, the United Kingdom, the Soviet Union, Jugoslavia, and the French National Committee which represented the permanence of France, solemnly re-affirmed their will to punish the war criminals who are responsible for this extermination.

The elements of a just repression are thus found to be joined together. The accused, at the time when they committed their crimes knew the will of the United Nations to bring about the punishment for them.

The warnings which were given to them show that definition was previous to repression.

The accused, moreover, could not be ignorant of the criminal nature of their activities. The warnings of these allied governments translated, in effect, in a political form, the fundamental principles of international and of national law which permit the punishment of war criminals to be established on positive precedents and rules.

The founders of international law had an inkling of the concept of war crime, particularly Grotius who elucidated the criminal character of needless acts of war. The Hague Conventions, after the lapse of several centuries, established the first norms imperative for the laws of war. They regulated the conduct of hostilities and occupation procedures; they formulated positive rules in order to limit recourse to force and to bring the necessities of war into agreement with the requirements of human conscience. War crime thus received the first definition under which it may be considered; it became a violation of laws and customs of war as codified by the Hague Convention.

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Came the war of 1914. Imperial Germany waged the first World War with a brutality perhaps less systematic and frenzied than that of the National Socialist Reich, but just as deliberate. The deportation of workers, looting of public and private property, the taking and killing of hostages, the demoralization of the occupied territories constituted, in 1914 as in 1939, the political methods of German warfare.

The Treaty of Versailles was based on the Hague Convention as to the organization of the repression of war crimes. Under the title "Sanctions", chapter VII of the Treaty of Versailles discusses criminal responsibility incurred in the launching and waging of the conflict which was then the Great War. Article 227 accused William of Hohenzollern, previously emperor of Germany, of a supreme offense against international morality and against the sacred character of treaties. Article 228 acknowledged the right of the Allied and Associated Powers to bring persons guilty of acts contrary to the laws and customs of war before military tribunals.

Article 229 provided that criminals whose acts were not of precise geographical location were to be referred to interallied jurisdiction. The provisions of the Treaty of Versailles were repeated in the conventions which were signed in 1919 and 1920 with the powers allied with Germany, in particular in the Treaty of Saint-Germain and in that of Neuilly. That is how the idea of war crime was affirmed in international law. The peace treaties of 1919 not only defined the concept of infringement; they formulated the term of its repression. The accused were aware of this, just as they were aware of the warnings of the governments of the United Nations. They no doubt hoped that the renewal of the circumstances of fact which hampered the repression of the criminals of 1914 would permit them to escape their just punishment. Their presence before this Tribunal is the symbol of the constant progress which international law is making in spite of all obstacles.

International law had given a still more precise definition of the term "war crime". This definition was formulated by the Commission which

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the preliminary peace conference appointed on 25 January 1919 to disentangle the various responsibilities incurred in the course of the war. The report of the Commission of Fifteen of 29 March 1919 constitutes the historical basis of articles 227 ff. of the Treaty of Versailles. The Commission of Fifteen based its investigation of penal responsibilities on an analysis of the crimes suitable to engage their attention. A material element enters into the juridical settlement of any infraction. Its definition is therefore the more precise as it includes an enumeration of the facts which it encompasses. That is why the Commission of Fifteen set up a list of war crimes. This list includes 32 infractions. These are particularly:

1) Murders, massacres, systematic terrorism.

2) Killing of Hostages.

3) Torture of civilians.

8) Burying of civilians in inhuman conditions.

9) Forced labor of civilians in connection with military operations of the enemy.

10) Usurpation of sovereignty during the occupation of occupied territories.

11) Forced conscription of soldiers among the inhabitants of the occupied territories.

12) Attempts to denationalize the inhabitants of occupied territories.

13) Looting

14) Confiscation of property.

17) Imposition of collective fines.

18) Willful devastation and destruction of property.

25) Violation of other rules concerning the Red Cross.

29) Ill-treatment of wounded and prisoners of war.

30) Use of prisoners of war for unauthorized work.

This list, which already includes the grievances against the accused enumerated in the indictment, is significant because the war crimes which it encompasses all present a composite character. They are crimes against both international law and national law. Some of these crimes constitute attacks on the fundamental liberties and the constitutional rights of peoples and of individuals; they consist of the violation of public guarantees which are

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recognized by the constitutional Charter of the Nations whose territories were occupied: violation of the principles of liberty equality, and fraternity which France proclaimed in 1789 and of which the civilized States guarantee the perpetuity. These war crimes are violations of public international law, since they express a systematic failure to recognize the respective rights of the occupying power and the occupied power; but they can equally be analyzed as violations of public national law, since they forcibly transform the constitutional institutions of the occupied territories and the jurdical statute of their inhabitants.

More numerous are crimes which constitute sttacks on the interority of the physical person and of property.

They are connected with the making of rules of war and include violation of international law and customs.

But the international conventions, it should be remarked, determine the elements constituting an infraction more than they actually create that infraction itself. The latter existed before in all of national legislatures, it was to some extent a part of the juridical inheritance common to all nations; Governments agreed to affirm its international character and to define its contents. International penal law is thus superimposed on national law,which preserves its repressive basis because the war crime remains, in the last analysis, a crime of common law. National penal law gives the designation for this. All the acts referred to in article 6 of the Charter of 8 August 1945, all the facts encompassed by the third heading of the indictment of 18 October 1945 correspond to the infractions of common law provided for and punished by national penal legislation. The killing of prisoners of war; of hostages; and of inhabitants of occupied territories falls; in French law, under Articles 295 ff. of the Penal Code, which define murder and assassination. The mistreatment to which the indictment refers

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would come under the heading of wounds and voluntary blows which are defined by articles 309 ff. Deportation is analyzed, independently of the murders which accompany it as an arbitary illegal restraint,

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which is defined by articles 341 and 344. Pillage of public and private property and the imposition of collective fines are penalized by articles 221 ff. of the Military Code of Justice. Article 434 of the Penal Code punishes voluntary destruction, and the deportation of civilian workers is comparable with the forced conscription provided for by article 92. The oath of allegiance is equivalent to the obligation to a false oath article 366, and the germanization of occupied territories is applicable to in number of crimes, the most obvious of which is forced incorporation in the Wehrmacht in violation of article 92. The same equivalents can be found in all modern legislative systems and particularly in German law.

The crimes against persons and property of which the accused are guilty are provided for by all national laws. They present an international character because they were committed in several different countries; from this there arises a problem of jurisdiction which the Charter of 8 August 1945 has solved, as we have previously explained; but this leaves intact the rule of defining them.

A crime of common law, the war crime is nevertheless not an ordinary infraction; it has a peculiar intrinsic character - it is a crime committed on the occasion or under the pretext of war. It must be punished because, even in time of war, attacks on the integrity of the physical person and of property are crimes when they are not justified by the laws and customs of war. The soldier who on the battlefield kills an enemy combatant commits a crime, but this crime is justified by the law of war. International law therefore intervenes in the definition of a war crime, not in order to give it its essential qualification but in order to set its outer limits. In other words, any infraction committed on the occasion or under the pretext of hostilities is criminal if it is not justified by the laws and customs of war. International law applies the national theory of legitimate defense which is common to all codes of criminal law. The combatant is engaged in legitimate defense on the battlefield; his homicidal action is therefore covered by a justifying fact. Let the justifying fact disappear, and the infraction, whether ordinary crime or war crime, remains in its entirety! In order for the justifying fact to be

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constituted, the criminal action must be necessary and proportional to the threat to which it responds. The defendant, against whom justice is demanded of you cannot plead such justification.

Neither can they escape their responsibility by arguing that they were not the physical authors of the crimes. The war crime involves distinct and complementary responsibilities; that of the physical author and that of the instigator. There is nothing heterodox in this conception. It is the faithful translation of the criminal theory of complicity through instructions. The responsibility of the accomplice, whether independent of or complementary to that of the principal author is incontestable. The accused bear the entire responsibility of the crimes which were committed on their instructions or under their control.

Finally these crimes cannot be justified by the pretext of an order from above given by Hitler to the defendants. The theory of the justifying fact of an order from above has, in national laws, definite limits; it does not cover the execution of orders whose illegality is manifest. German law, moreover, assigns only a limited role to the concept of justification by orders from above. Article 47 of the German Military Code of Justice of 1940, although maintaining in principle that a criminal order from a superior removes the responsibility of the agent, punishes the latter as an accomplice when he went beyond the orders received or when he acted with knowledge of the criminal character of the act ordered. Goebbels once made this juridical concept the theme of his propaganda. On 28 May 1944 he wrote in an article in the Voelkischer Beobachter, which was submitted to you by the American public prosecutor, an article intended to justify the assassination of allied pilots by the German population; "The pilots cannot validly claim that as soldiers they obeyed orders. No law of war provides that a soldier will remain unpunished for a heinous crime by referring to the orders of his superior, if their orders are in striking opposition to all human morals and to all international customs. In th[illegible] do not exonerate

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in the conduct of war."

Orders from above do not exonerate the agent of a manifest crime from responsibility. Any other solution would, moreover, be inacceptable, for it would testify to the impotence of all repressive policy.

All the more reason why orders from above cannot be the justifying fact for the crimes of the defendant. Sir Hartley Shawcross told you with eloquence that the accused cannot claim that the crime against the peace was the doing of Hitler alone and that they limited themselves to transmitting the general directives. It is with war crimes as with the will for aggression; they are the common work of the defendants; the defendants bear the joint responsibility for the criminal policy which resulted from the National Socialist doctrine.

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1) The responsibility for German war criminality, because it constituted a systematic policy, planned and prepared before the ppening of hostilities, and perpetrated without interruption from 1940 to 1945, rests with all the defendants, political or military leaders, high officials of National Socialist Germany, and leaders of the Nazi Party.

Nevertheless, certain ones among them appear more directly responsible for the acts taken as a whole, particularly those connected with the French charges, that is to say crimes, committed in the Western occupied territories, or against the Nationals of these countries. We shall cite:

The defendant Goering in his capacity as Director of the Four Year Plan, and President of the Cabinet of Ministers for Reich Defense;

the defendant Ribbentrop in his capacity of Foreign Affairs in charge of the administration of occupied countries;

the defendant Frick in his capacity as Director of the Central Office for occupied terrotories;

the defendant Funk in his capacity as Minister of Reich Economy;

the defendant Keitel, inasmuch as he had command over the occupation armies;

the defendant Jodl, associated in all the responsibilities of the preceding defendant;

the defendant Seyss-Inquart in his capacity as Reich's Commissar for the occupied Dutch territory from 13 May 1940 to the end of the hostilities.

We will examine more especially, among these defendants or among others, those responsible for each category of acts, it being understood that this enumeration is in no wise restrictive.

The defendant Sauckel bears the chief responsibility for forced labor in its various forms. As Plenipotentiary for labor, he carried out the intensive recruiting of workers by

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every possible means. He is in particular the signer of the decree of August 22,1942, which constitutes the charter for forced labor in all occupied countries. He worked in liaison with defendant Speer, chief of the Todt Organization; as general plenipotentiary for armament in the office of the Four Year Plan, as well as with the defendant Funk, Minister of Reich Economy, and with the defendant Goering, Chief of the Four Year Plan.

The defendant Goering participated directly in economic looting in the same capacity; he appears to have often sought and derived a personal profit from it. The defendant Ribbentrop in his capacity as Minister of Foreign Affairs was no stranger to these acts. The defendant Rosenberg, organizer and Chief of the "Einsatzstab Rosenberg", is particularly guilty of the looting of works of art in the occupied countries.

The chief responsibility for the murders of hostages lies with the defendant Keitel, the drafter,notably of the general order of 16 September 1941, to his assistant, the defendant Jodl, to the defendant Goering, and who agreed to the order in question.

The defendant Kaltenbrunner, Himmler's direct associate, and chief of all the foreign police and security offices, is directly responsible for the monstrous devices to which the Gestapo had recourse in all occupied countries, devices which are only the continuation of the methods orginated in the Gestapo by its founder, the defendant Goering.

The defendant Kaltenbrunner is likewise directly responsible for the crimes committed in the deportation. Moreover, he visited these, as will be proved, in the case of the Mauthausen camp. The defendant Goering knew of and gave his approval to the medical experiments made on the prisoners. The defendant Sauckel forced prisoners by every possible means to work under conditions which were ofter inhuman for the German war production.

The defendant Keitel, and his assistant, the defendant Jodl, are responsible for treatment contrary to the laws of war

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inflicted upon war prisoners, for murders and killings to which they were subjected as well as, for handing over great numbers of them to the Gestapo. The defendant Goering shares their responsibility for the execution of Allied aviators and soldiers belonging to the commando groups. The defendant Sauckel directed the work of war prisoners for the German war production in violation of International Law.

The defendant Keitel and the defendant Kaltenbrunner both bear the chief responsibility for the terrorist actions carried out jointly by the German Army and the police forces in the various occupied countries, and notably in France, against the Resistance, as well as for the devastations and massacres carried out against the civilian population of several French Departments. The defendant Jodl shares in this responsibility, most particularly through his initial instruction,"Struggle against partisan bans" dated 6 May 1945 which provides for "Collective measures against the inhabitants of entire villages." These blows against mankind are the result of racial theories of which the defendant Hess, the defendant Rosenberg, the defendant Streicher are among the instigators, or propagandists. The defendant Hess put a notable thought in the formulation of the thesis developed in Mein Kampf.

The defendant Rosenberg, one of the principal theorists on racism, exercised the function of special delegation for the spiritual ideological formation of the Nazi Party. The defendant Streicher showed himself to be one of the most violent antisematic agitaters. In the execution of the pokicy of Germanization and Nazization, responsibility is shared between the Minister of Foreign Affairs, i.e. the defendant Ribbentrop, the general staff, i.e. the defendants Keitel and Jodl, the Central Office for all the occupied territories, i.e. the defendant Frick.

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2) The major National Socialist culprits had their orders carried out in the divers Nazi organizations, w ich we asked you to declare criminal, in order that each of their members may be then apprehended and punished.

The Reichcabinet, the Reich corps of Nazi Party, the general staff, and High Command of the German Armed Forces represent only a small number ofpersons whose guilt and punishment must inultimately result from the evidence since they participated personally and directly in the decisions, or their execution of them throu h some eminentperson in the political or militaty hierarchy, and without bein able to i nore the criminal nature of them, and directors of the Nazi Party are unquestionably among those who most obviously participated in the criminal enterprise; and around the defendants Keitel and Jodl the military High Comman directed the Army to execute hostages, to pillage, to destroy, and to murder in an unjustified fashion.

But perhaps it will seem to you that to doom to punishment hundreds of thousands of men who belonged to the SS, to SD, to the Gestapo, to the SA, awakens some objection. I should like to try since this case to do away with that objection by showing you the dreadful responsibilities of these men. Without the existence of these organizations, without the spirit which animated them, one would not succeed in understanding how so many atrocities could have been perpetrated. The systematic war of criminality could not have been carried out by Nazi Germany without these organizations, without the men who composed them. It is they who for Germany not only executed but willed this body of crime.

It may have seemed impossible to you that the monstrous barbarity of the National Socialist Doctrine could have been imposed upon the German people, the heir, as we are, of the highest values of civilization. The education by the Nazi Party of the young men who formed the SS, the SD, and the Gestapo, expands the empire of Nazism over all Germany, the incarnated National Socialism, and permitting it to accomplish, and thanks to the

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guilty passiveness of the whole German population a part of his purpose. This youth, those who carried out the tenets of the regime were formed in a vertable doctrine or immoralism, results from the notion of the world which served as inspiration for the regime. The myth of race in the years of these disciples of Nazism removed from criminal war its criminal character.

If it is proved that a superior race is to annihilate races and peoples that are considered inferior and decadent, inequitable of living a life as it should be lived, before what means of extermination will they recoil? The ethics of immorality, the result of the most authentic Nietscheism, which considers that the destruction of all conventional ethics is the supreme attitude of man. The crime against race is punished without pity. The crime on behalf of race is exalted with ut limit. The regime creates truly a logic of crime which opposed its own laws, and which has no connection whatsoever with what we consider ethical. With such a point of view, all powers could be justified and authorized. So many acts which appear uncomprehensible to us, so greatly do they clash with our customary notions were explained, were formulated in advance in the name of the racial community.

Add that these atrocities, and these cruelties were perpetrated within the rigid framework created by the espirit de corps by the soldierly solidarity which bound individual and insured through the regimentcy of the crime an unlimited theme of action, the individual who committed them would not only cover by the regime itself, but spurred on by the discipline and the camaraderie of these established corps of Nazi criminality.

German youth was invited by these organizations to live an extraordinary adventure. By the Party and its massive grip, dispensing mercy to itself with the unlimited power of Nazi youth were asked to carry out on the highest echelon of grandiose dreams the National Socialist Pan-Germanism.

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The Party exercised a high selectivity among its youth, and neglected no simulation. It solicited from its youth the desire to distinguish itself to accomplish exploits beyond the common order and beyond nature. The youth Hitlerien, the Gestapo of the SS that knew that his acts no matter how cruel or inhumane they might be, would always be judged by the regime in the name of the racial community of its needs and of its triumphs. The Nazi Party, thanks to the youngmen of the SS, . of the SD, and of the Gestapo had thus become capable on a criminal plane what no where nor any people would have been able to commit. The members of these organizations became voluntarily the authors of this inequitable mass of crimes of their kind, executed frequently with the disconcerting synacism, and with a refined sadism, not only in the concentration camps of Germany, but also in the divers occupied countries, and particularly in those of Western Europe.

The crimes are monstrous. The crimes are theirs, and their responsibilities is established. There is no possible doubt.

But nevertheless all along these serene sessions of this trial, extraordinary in the history of the world, before the exceptional nature, on the justice of which your high Tribunal is asked to render for the indicated nations, and the German people, and for the whole humanity, a few objections have arisen in our minds.

It is our duty to explore all the aspects of this trial, even if it is still only unconscious within us, for soon a pseudo patriotic propaganda may arise in Germany, and even may echo in some of our countries.

Who can say: "I have a clean conscious, I am without fault? To have two weights and two measures are both abhored by God." This text from the scripture (Proverbs 20, 9 to 10). Has that arisen here or there; it will serve tomorrow as a theme of propaganda, but above all, it is profoundly written in our soul by raising us in the name of our mortal peoples as accusers of Nazi Germany. We have never for a moment held it in check as an unwanted appeal.

Yes, no nation is without reproach in its history, just as no individual is faultless in his life. Yes, every war in itself generates iniquitous ills, and entails almost necessarily individual and collective

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crimes, because it easily unleashes in man the evil passions which always slumber there.

But viewing the Nazi German culprits, we can examine our conscience fearlessly; we find no common measure between them and ourselves.

If this criminality was accidental; if Germany had been forced into war; if crimes had been committed only in the excitement of combat, we might question ourselves on the text of the Scriptures. But the war was prepared and deliberated upon long in advance, and up to the very last day it would have been easy to avoid it without sacrificing any of the legitimate interests of the German people. And the atrocities were perpetrated during the war, not under the influence of a mad passion, or of a warlike anger, or of an avenging resentment, but as a result of cold calculation, of perfectly conscious methods, of a pre-existing doctrine.

The truly diabolical enterprise of Hitler, and of his companions, was to assemble in a body of the dogmas around the concept of race, all the instincts of barbarism, repressed by centuries of civilization, but always present within the depths of men, all the negations of the traditional values of humanity, without which nations, as well as individuals question their conscience in the troubled hours of their evolution and of their life; to construct and to propagate a doctrine which organizes, regulates, and aspires to command crime.

The diabolical enterprise of Hitler, and of his companions, was also to appeal to the forces of evil in order to establish his domination over the German people, and subsequently the domination of Germany over Europe, and perhaps over the world. They planned to incorporate organized criminality into a system of government, into a system of international relation, and into a system of war conduct, by unleashing in the whole nation the most savage passions.

Nationalism, and the service of their people and of their country, will perhaps be their explanation; far from constituting an excuse, if any excuse were possible in view of the enormity of their crime, these determining causes would make it still greater. They have profaned the sacred concept of country linking it to a willed return to barbarism.

In its name they obtained half by force, half by persuasion the adhesion of a whole country, formerly among the greatest in the order of spiritual value, and have lowered it to the lowest level. The moral confusion, the economic difficulties, the obsession of the defeat of 1918, and of loss might, the Pan-Germanic tradition are the basis of the empire of Hitler and of his companions over the dis-oriented people; to abandon oneself to force, to renounce moral concern, to satisfy a love of collectivity, to revel in lack of measure are the natural temptations strongly emplanted in the German, which the Nazi leaders exploited with cynicism. The intoxication of success, the madness of greatness completed the picture, and put practically all Germans, some without doubt unconsciously, in the service of the National Socialist Doctrine by associating them with the diabolical enterprise of their Führer and his companions.

Opposing this enterprise arose men of various countries and different societies, but all animated with the common bond of their human lot, France and Great Britain entered the war only to remain faithful to their word. The peoples of the occupied countries, tortured in their flesh, and in their souls, never renounced their liberty, nor their cultural values, and it was magnificent epicof clandestine opposition and of Resistance which through a splendid heroism, testifies to the spontaneous refusalof the populations to accept the [illegible]s. Millions and millions of men of the Soviet Union fell to defend not only the soil and independence of their country, but also their humanitarian universalism. The millions of British and American soldiers, who landed on our unhappy continent carried in their hearts the ideal of freeing from Nazi oppression, both the occupied countries, and the peoples who willingly or by force became the satellites of the Axis and of the German people itself.

These partisans and these soldiers separately and collectively were with or without uniforms, soldiers of great hope which throughout centuries has fed on popular suffering, the great hope of a better future for mankind.



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Sometimes this great hope expresses itself with difficulty or loses its way, or tries to deceive itself or knows the dread return of barbarism, but it persists always, and finally constitutes the powerful lever which brings about the progress of humanity. These aspirations always reborn, these concerns constantly awakened, this anguish unceasingly present, this perpetual combat against evil, form in a permanent fashion the sublime grandeur of man. National Socialism only yesterday emperiled all of this.

After that gigantic struggle where two ideologies, two conceptions of life were at grips, in the name of the people whom we represent here, and in the name of the great human hope for which they have so greatly suffered, so greatly fought, we can without fear and with a clean conscience arise as accusers of the leaders of Nazi Germany.

As Mr. Justice Jackson so eloquently at the opening of this trial: "Civilization could not survive if these crimes were to be committed again." And he added: "The true plaintiff in this court is civilization."

Civilization requires from you after this unleashing of barbarism, a verdict which will also be a sort of supreme warning at the hour when humanity appears still at times to enter the path of the organization of peace only with apprehension and hesitation.

If we wish that on the morrow of the cataclysm of war, the sufferings of martyred countries, the sacrifices of victorious nations and also the expiation of guilty people, will engender a better humanity, justice must strike those guilty of the enterprise of barbarism from which we have just escaped. The reign of Justice is the most exact expression of the great human hope. Your decision can mark a decisive stage in its difficult pursuit.

Undoubtedly even today, this justice and this punishment have become possible only because as a first condition free peoples emerged victorious from the conflict. There is a relationship in the facts between the force of the victors and the guilt of the vanquished leaders who appear before your high Tribunal.

But this relationship signifies nothing except that this evidence of the wisdom of nations that justice in order to impose itself effectively and constantly upon individuals and upon nations must have force at its disposal.

The common will to put force in the service of justice animates our nations and commands all our civilization.

This resolution is brilliantly strengthed today in a judicial case where the facts are examined scrupously under all their aspects. The penal nature of the offense rigorously established, the competency of the tribunal incontestable, the rights of the defense intact, total publicity insured.

Your decision intervening under these conditions can serve as a foundation for the moral uplift of the German people, first stage in its integration into the community of free countries. Without your decision, history might incur



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the risk of repeating itself, crime would become epic, and the National Socialist enterprise a last Wagnerian tragedy; and new Pan-Germanists would soon say to the Germans: "Hitler and his companions were wrong because they finally failed, but we must begin again some day on other foundations the extraordinary adventure of Germanism."

After your decision, if we know how to enlighten this people, and watch over their first steps on the road to liberty, National Socialism will be inscribed permanently in their history, as the crime of crimes which could only lead it to material and moral perdition, as the doctrine which they should forever avoid with horror and scorn in order to remain faithful to the great norms of communal civilization.

The eminent international jurist and noble European, Politis in his posthumus book entitled "International Ethics" reminds us that, as all ethical rules, those which should rule international relations will never be definitely established unless all peoples succeed in convincing themselves once and for all that there is greater profit to be gained through their observation than through their transgression.

That is why your judgment can contribute to enlighten the German people and all peoples.

Your decision must be inscribed as a decisive act in the history of International Law in order to prepare the establishment of a true international society excluding recourse to war and putting force permanently in the service of the justice of nations; it will be one of the foundations of this peaceful new order to which nations aspire on the morrow of this frightful torment. The need for justice of the martyred peoples will be satisfied and their sufferings will not have been useless for the progress of mankind.



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FRENCH

# INTRODUCTORY STATEMENT
# OF
# THE FRENCH PROSECUTION

Introductory Statement of the French Prosecution

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